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GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

THE

LOWER PROVINCES CODE:

IN TWO VOLUMES.

78508

VOLUME II,

CONTAINING THE

UNREPEALED ACTS OF THE LIEUTENANT-GOVERNOR OF BENGAL IN COUNCIL

AND

REGULATIONS MADE UNDER THE THIRTY-THIRD OF VICTORIA, CAP. 3,

WITH A CHRONOLOGICAL TABLE OF THE BENGAL ACTS.

CALCUTTA:

OFFICE OF THE SUPERINTENDENT OF GOVERNMENT PRINTING.

1879.

CALCUTTA:

PRINTED BY THE SUPERINTENDENT OF GOVERNMENT PRINTING,

8, HASTINGS STREET.

PREFACE.

THIS the second volume of the Lower Provinces Code, is published under the authority of the Government of India, and contains, first, the unrepealed Acts of the Lieutenant-Governor of Bengal in Council, and, secondly, the Regulations for certain districts in Bengal made under the thirty-third of Victoria, cap. 3.

It is founded on the official copies of the Acts of the Lieutenant-Governor in Council and of the Regulations made under 33 Vic., cap. 3, preserved in the Legislative Department.

The only changes made in reprinting are the following:—

(*a.*) Repealed portions of Acts have been omitted, except in some cases where the repeal is not specific. In such cases the repeal is mentioned in a foot-note.

(*b.*) Where an Act directs that a section, a clause or words be inserted in a former Act, in reprinting the former Act the insertion has been made.

(*c.*) Where one Act refers to another and such reference is directed by a subsequent Act to be read as if made to the latter Act, the number, year and title of the latter Act have, as a rule, been substituted in the text.

(*d.*) Arabic numerals have been substituted for the Roman numerals used in the earlier Acts to denote the section-numbers

(*e.*) Words belonging to oriental languages have been uniformly spelt.

(*f.*) Lengthy sections have sometimes been divided into clauses and paragraphs.

(*g.*) In some instances, marginal notes have been added; in others, they have been shortened or corrected.

The Registrar, Legislative Department, is responsible for the correct printing of unaltered matter.

While this volume was passing through the Press, the following Acts have been repealed and should be cancelled:—

Bengal Act VI of 1862.
Bengal Act VI of 1864.
IV of 1866, sections 63, 64, 65.
IV of 1867.
IV of 1870.
II of 1872.
II of 1875.
III of 1875.
I of 1877.
III of 1878.

W. S.

SIMLA;
The 7th June, 1879.

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[a] Repealed.

CHRONOLOGICAL TABLE OF ACTS OF THE LIEUTENANT-GOVERNOR OF BENGAL IN COUNCIL.

Year.	Number.	Subject-matter.	How repealed or otherwise determined.
1862	I	Hoisting signals, Huglí ...	Rep., XII of 1876.
	II	Small Cause Courts ...	Rep., XII of 1873.
	III	Amending Act XI of 1859 ...	Rep. in part, XII of 1873.
	IV	Discipline in Great Jail, Calcutta	Rep., Ben. Act V of 1865.
	V	Survey of Steamers ...	Rep. in part, Ben. Act I of 1868.
	VI	Amending Act X of 1859 ...	Rep. locally, Ben. Act VIII of 1869; Ben. Act I of 1879; in part, VII of 1870.
	VII	Repealing Regulation II, 1819, section 30.	Rep. in part, XII of 1873; XVI of 1874.
	VIII	Zamíndárí dáks	Rep. in part, XII of 1873.
	IX	Registration of deeds ...	Rep., Ben. Act II of 1865.
1863	I	Port Canning	Rep., XII of 1875.
	II	Smoke-nuisances, Calcutta ...	Rep. in part, XII of 1876.
	III	Transport of Native labourers ...	Rep., Ben. Act II of 1870.
	IV	Chittagong Hill Tracts ...	Rep. in part, XII of 1873 (except in Scheduled Districts), XIV of 1874.
	V	Process-servers	Rep., VII of 1870.
	VI	Calcutta Municipality ...	Rep., Ben. Act IV of 1876.
1864	I	Hackney-carriages, Calcutta ...	Rep., Ben. Act V of 1866.
	II	Jails ...	Rep. in part, XII of 1873; Ben. Act V of 1865.
	III	Municipal Commissioners, Mufassal	Rep., Ben. Act V of 1876.
	IV	Alteration of limits of Zilas.	
	V	Canal-tolls	Rep. in part, XII of 1873.
	VI	Inspection of steam-boilers ...	Rep., Ben. Act III of 1879.
	VII	Salt	Rep. in part, XII of 1873.
1865	I	Court of 24-Parganas ...	Rep., XII of 1873.
	II	Registration of deeds ...	
	III	Fire in Ports	Rep. in part, XII of 1875.
	IV	Inoculation.	

Year.	Number.	Subject-matter.	How repealed or otherwise determined.
1865	V	Jails	Rep. in part, XII of 1873.
	VI	Native labourers	Rep., Ben. Act II of 1870.
	VII	Slaughter-houses, Calcutta ...	Rep. locally, Ben. Act IV of 1876.
	VIII	Sale of under-tenures ...	Rep. in part, XII of 1873.
	IX	Amending Ben. Act VI of 1863...	Rep., Ben. Act IV of 1876.
1866	I	Amending Reg. VI of 1819 ...	Rep. in part, XII of 1873.
	II	Police in Suburbs of Calcutta ...	Rep. in part, Ben. Act II of 1867, Ben. A[illegible] 1869, Ben. A[illegible] 1874.
	III	Witnesses before Legislative Council.	
	IV	Calcutta Police	Rep. in part, XII o[illegible] XII o[illegible] IV of [illegible] Ben. Act [illegible] 1867, s. [illegible] Ben. Act I of 1869, s. 8; Ben. Act II of 1876, s. 12; Ben. Act IV of 1879.
	V	Hackney-carriages, Calcutta ...	Rep. in part, XII of 1873.
	VI	Amending Ben. Act VI of 1863...	Rep., Ben. Act IV of 1876.
	VII	Embankments	Rep. locally, Ben. Act VI of 1873.
	VIII	Calcutta Police Magistrates ...	Rep., IV of 1877.
	IX	Resisting apprehension ...	Rep., XII of 1873.
	X	Port of Calcutta	Rep., Ben. Act V of 1870, s. 93.
1867	I	Amending Act VI of 1863 ...	Rep., Ben. Act IV of 1876.
	II	Public gambling.	
	III	Ships in Ports	Rep. in part, XII of 1873; XII of 1875.
	IV	Amending Ben. Act VI of 1862	Rep. locally, Ben. Act VIII of 1869; Ben. Act I of 1879.
	V	Shortening language of Acts.	
	VI	Police in Towns and Municipalities	Rep., Ben. Act V of 1876.
	VII	Amending Ben. Act III of 1864...	Rep., Ben. Act V of 1876.

Year.	Number.	Subject-matter.	How repealed or otherwise determined.
1867	VIII	E. I. Irrigation Co. water-rates...	Rep. locally, Ben. Act III of 1876; in part, Ben. Act VI of 1869.
	IX	Amending Act VI of 1863 and Act VI of 1866.	Rep., Ben. Act IV of 1876.
	X	Settlement in Katak, &c.	
	XI	Calcutta Police and Pauper-hospitals	Rep., Ben. Act IV of 1876.
1868	I	Survey of Steamers	Rep. in part, XII of 1873.
	II	Amending District Improvement Act.	Rep., Ben. Act V of 1876.
	III	Appeals under Reg. VII of 1822...	Rep. in part, XII of 1873.
	IV	Amending Act IX of 1847 ...	Rep. in part, XII of 1873.
	V	Calcutta Municipality ...	Rep., Ben. Act IV of 1876.
	VI	Police and Conservancy of Towns	Rep., Ben. Act V of 1876.
	VII	Recovery of arrears of land-revenue.	Rep. in part, XII of 1873; Ben. Act II of 1871.
	VIII	Repealing Act XXI of 1857 ...	Rep., XVI of 1874.
1869	I	Cruelty to animals	Rep. in part, XII of 1873.
	II	Chutiá Nágpur tenures ...	Rep. in part, VII of 1870.
	III	Arrests for cruelty to animals.	
	IV	Port of Calcutta	Rep., Ben. Act V of 1870.
	V	Holding Courts of Session.	
	VI	Irrigation-rates	Rep. locally, Ben. Act III of 1876.
	VII	Police-force.	
	VIII	Suits between landlord and tenant	Rep. in part, VII of 1870.
1870	I	Calcutta water-rate	Rep., Ben. Act IV of 1876.
	II	Transport of Native labourers ...	Rep., Ben. Act VII of 1873.
	III	Transfer of certain suits to Civil Courts.	Rep., XII of 1873.
	IV	Court of Wards	Rep. in part, XII of 1873.
	V	Calcutta Port Improvement Commissioners.	Rep. in part, XII of 1873.
	VI	Village Chaukídárs	Rep. in part, Ben. Act I of 1871, s. 5.
	VII	Sanitary condition of Dháká ...	Rep., Ben. Act V of 1876.
1871	I	Amending Act VI of 1870.	
	II	Recovery of arrears of land-revenue.	
	III	Fees for survey of steamers.	
	IV	Sanitation of Puri	Rep. in part, Ben. Act V of 1876.
	V	Drainage, Huglí and Burdwan.	
	VI	Amending Ben. Act VI of 1863...	Rep., Ben. Act IV of 1876.

Year.	Number.	Subject-matter.	How repealed or otherwise determined.
1871	VII	Amending Calcutta Port Improvement Act.	
	VIII	Calcutta Market	Rep., Ben. Act IV of 1876.
	IX	Hugli Bridge.	
	X	Road-rates.	
	XI	Census.	
1872	I	Municipal debt, Calcutta ...	Rep., Ben. Act IV of 1876.
	II	Jute Warehouses	Rep., Ben. Act V of 1879.
	III	Calcutta Port Improvement ...	Rep. in part, XII of 1875
1873	I	Amending Salt Act, 1864.	
	II	Amending District Municipal Act	Rep., Ben. Act V of 1876
	III	Ábkárí	Rep., Ben. Act VII of 1878
	IV	Registering births and deaths.	
	V	Lighting-rate, Howrah.	
	VI	Embankments and water-courses, &c.	
	VII	Emigration of labourers to Assam.	Rep. in part, Ben. Act II of 1878.
1874	I	Ábkárí	Rep., Ben. Act VII of 1878
	II	Amending Ben. Act VIII of 1871.	Rep., Ben. Act IV of 1876
1875	I	Realization of arrears in Government estates.	
	II	Amending Jute Warehouse Act	Rep., Ben. Act V of 1879
	III	Amending Ben. Act VI of 1864...	Rep., Ben. Act III of 1879
	IV	Recovery of Famine-loans.	
	V	Survey and demarcation of land.	
1876	I	Registration of Muhammadan marriages and divorces.	
	II	Ábkárí	Rep. in part, Ben. Act VI of 1878
	III	Irrigation.	
	IV	Calcutta Municipality.	
	V	Mufassal Municipalities.	
	VI	Agricultural disturbances.	
	VII	Registration of Lands ...	Rep. in part, Ben. Act V of 1878
	VIII	Partition.	
1877	I	Amending Bengal Acts, II of 1872 and II of 1875.	Rep., Ben. Act V of 1879
	II	Provincial Public Works Cess.	
1878	I	License-tax.	
	II	Extending Bengal Act VII of 1873 to Chittagong.	
	III	Powers of Settlement-officers.	Rep., Ben. Act VIII of 1879
	IV	Amending Bengal Act V of 1866.	

Number.	Subject-matter.	How repealed or otherwise determined.
V	Amending Bengal Act VII of 1876.	
VI	Latrines.	
VII	Abkárí.	
VIII	Rural Police, Hazáríbágh and Lohárdaga.	
I	Landlord and Tenant, Chutiá Nágpur.	
II	Extending Bengal Act IV of 1871.	
III	Steam Boilers.	
IV	Passenger Boats.	
V	Jute Warehouses.	
VI	Darjeeling Tramway.	
VII	Inland Steam Vessels.	
VIII	Settlement-officers' Powers.	
IX	Court of Wards.	

THE LOWER PROVINCES CODE.

PART III:

ACTS OF THE LIEUTENANT GOVERNOR OF BENGAL IN COUNCIL.

ACT No. III of 1862.

Received the Lieutenant-Governor's assent on the 10th of April 1862, and the Governor General's assent on the 21st idem.

An Act to amend Act XI of 1859 (to improve the law relating to sales of land for arrears of Revenue in the Lower Provinces under the Bengal Presidency).

Preamble.

WHEREAS it is expedient to extend the period allowed for the registry of under-tenures and farms, and to alter the scale of fees on certain applications for the opening of separate accounts for shares of entire estates, for deposit of money or Government securities, and for registry of under-tenures and farms; It is enacted as follows—

1.—[*Repealed by Act No. XII of 1873.*]

Time for registration under sections 40-44, Act XI. 1859, extended.

2. Applications under sections 40, 43 and 44 of Act XI of 1859, for registry of tenures and farms created before the passing of Act XI of 1859, must be made within three years of the passing of this Act.

Applications for the registry of tenures existing at the time of the passing of this Act, but created after the passing of Act XI of 1859, must be made within three months of the passing of this Act.

Applications for the registry of tenures created after the passing of this Act must be made within three months of the date of the deed constituting the tenure.

Fees to be paid at rates mentioned in schedule.

3. The Collector on the part of the Government shall be entitled to demand from applicants under sections 10 and 11, sections 15 and 16, sections 40, 43 and 44, of Act XI of 1859, fees not exceeding the rates specified in the schedule to this Act annexed, which schedule shall be taken as part o"

this Act; and applications under the said sections shall not be received unless the said fees are tendered therewith.

Act to be read as part of Act XI of 1859.

4. This Act shall be taken and read as part of the said Act XI of 1859.

SCHEDULE OF FEES.

1. For filing an application under section 10 or section 11 of Act XI of 1859, for opening a separate account for a share of an entire estate—

If the annual jama of the share do not exceed 1,000 rupees—at the rate of ten per cent. upon the jama. If the annual jama of the share exceed 1,000 rupees—at the rate of ten per cent. upon 1,000 rupees, and two per cent. upon all above that amount.

2. For filing an application for a deposit of money or Government securities under section 15 of the said Act—half per cent. on the amount deposited.

For any interest on Government securities so deposited, drawn by the Collector—half per cent. on the amount drawn.

For filing an application for withdrawal of a deposit under section 16 of the said Act—half per cent. on the amount withdrawn.

3. For filing an application, under section 40, 43 or 44 of the said Act, for the registration of an under-tenure or farm—

if the annual rent of the under-tenure or farm do not exceed 1,000 rupees —at the rate of five per cent. on the rent:

if the annual rent of the under-tenure or farm exceed 1,000 rupees—at the above rate up to 1,000 rupees, and at one per cent. on all above that amount.

ACT No. V OF 1862.

Received the Lieutenant-Governor's assent on the 22nd of April 1862, and the Governor General's assent on the 1st of May 1862.

An Act to provide for the periodical survey of steam-vessels in the Port of Calcutta.

Preamble.

WHEREAS it is desirable to provide for the survey, by competent surveyors, of steam-vessels in the Port of Calcutta, with a view to the due security of the lives of passengers and property shipped on board such steam-vessels; It is enacted as follows:—

Steam-vessels liable to survey.

1. All steam-vessels plying on any of the rivers or waters within the Provinces subject to the Lieutenant-Governor of Bengal, except steam-vessels

which may ply between some port within the said Provinces and some port not in British India, shall be liable to be surveyed twice in every year in the manner prescribed in the said Act V of 1862.[a]

Government to appoint surveyors.

2. It shall be lawful for the Lieutenant-Governor of Bengal to appoint a fit and proper person, or fit and proper persons, to be a surveyor or surveyors for the purposes of this Act.

Authority to surveyors to board steamers for purpose of surveying.

3. It shall be lawful for the said surveyors, in the execution of their duties, to go on board any steam-vessel liable to be surveyed under this Act, as soon as reasonably may be after the arrival of such steam-vessel in the port of Calcutta or any other port of survey,[b] and not so as unnecessarily to hinder the loading or unloading of such steam-vessel, or to detain or delay her from proceeding on any voyage or service, and to inspect such steam-vessel or any part thereof, and any of the machinery, equipments or articles on board thereof: and the owner, master and officers serving on board of such vessel, shall be bound to afford to the surveyors all reasonable facility for such inspection or survey, and to afford them all such information respecting such vessel and her machinery and equipments, or any part thereof respectively, as may be reasonably required by the surveyors; and any person who shall refuse access to the surveyors, or shall otherwise hinder them in the performance of their duty, or shall refuse or neglect to give any information which may reasonably be required of them, and which they have it in their power to give, shall be liable for each offence to a penalty of five hundred rupees, or to one month's imprisonment.

Penalty for hindering surveyor, or withholding information.

Grant of certificate and declaration.

4. When any survey is made under this Act, the surveyors making such survey shall forthwith, if satisfied that they can with propriety do so, and on payment, by the owner or master, of the fees hereinafter mentioned, give to the owner or master of the steam-vessel surveyed a certificate and declaration signed by them, and framed as nearly as the circumstances of each case will admit, in the form set forth in schedule A hereto annexed.

No clearance to steamer for voyage for which she has not got surveyors' certificate.

5. No office of customs shall grant a clearance, nor shall any pilot be assigned to any steam-vessel liable to be surveyed under this Act, which shall not have been duly furnished with a certificate and declaration under the provisions of this Act applicable to the voyage on which she is about to proceed or the service on which she is about to be employed; and if any steam-vessel, liable to be surveyed under this Act, shall leave or attempt to leave the port of Calcutta or any other port of survey,[c] without such certificate and declaration applicable to the voyage on which she is about to proceed or the service on which she is about to be employed, the owner or master of such

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[a] Bengal Act No. I of 1868, section 1. [b, c] *Ibid.*, section 3.

steam-vessel shall be liable to a fine not exceeding one thousand rupees for each offence; and if there be any officer of Customs or any pilot on board of such steam-vessel, he may detain her until she is duly furnished with such certificate and declaration.

Master or officer who is licensed pilot attempting to take ship out without certificate, liable to lose license.

6. If the commander or any other officer of a tug-steamer, or of any other steam-vessel, liable to be surveyed under this Act, is a licensed pilot, and shall leave or attempt to leave the port of Calcutta or any other port of survey,[a] in such tug-steamer or steam-vessel without such tug-steamer or steam-vessel being duly furnished with a certificate and declaration under the provisions of this Act, applicable to the voyage on which she is about to proceed or the service on which she is about to be employed, such commander or other officer shall be liable to have his license as a pilot taken away from him entirely, or suspended for any period by the Lieutenant-Governor of Bengal, as the Lieutenant-Governor may see fit to order.

Power to order special survey of British steamer in survey-port.

7. It shall be lawful for the Lieutenant-Governor of Bengal to give special directions to the surveyors under this Act for the survey by them of any British steamer lying in the port of Calcutta or any other port of survey,[b] and plying between Calcutta or any other port of survey,[c] and any port or ports whatever, and the provisions of this Act shall apply (so far as the same are in any way applicable) to every vessel so specially directed to be surveyed, and the owner, master and officers thereof.

Government may make rules as to mode and time of conducting survey.

8. The Lieutenant-Governor of Bengal is hereby empowered to frame rules as to the manner in which the surveys shall be made and the times and places of such surveys, and the duties of the surveyors.

Provided that such rules shall not be inconsistent with the provisions of this Act.[d]

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a, b, c Bengal Act No. I of 1868, section 3.

[d] INSTRUCTIONS TO SURVEYORS OF STEAM-VESSELS, IN COMPLIANCE WITH SECTION 8 OF ACT V OF 1862, PASSED BY THE LIEUTENANT-GOVERNOR OF BENGAL IN COUNCIL.

Preliminary.

1. The present revised instructions relate to the duties to be performed by engineer and shipwright surveyors under Act V of 1862.
2. The instructions are numbered for facility of reference.

INSTRUCTIONS TO ENGINEER AND SHIPWRIGHT SURVEYORS-GENERAL

1. Surveys are, when practicable, to be made in the months of January and July, so that the declarations may be transmitted to the Master-Attendant on or before the last day of January and the last day of July, respectively.
2. But if, when the survey ought to be made, the vessel is absent from the port, or is not in a proper condition for a survey, either from being under construction or repair, or for any other sufficient reason, then the survey is to be made as soon afterwards as possible, and the declaration is to be transmitted with a statement endorsed therein by the surveyor of the reasons which have prevented the survey being held at the time prescribed.
3. Each surveyor is to be careful that the owners of the steam-vessels requiring survey are informed that they are to give him at least three days' notice in writing when a survey is required;

9. Any surveyor demanding or receiving directly or indirectly from the owner, master or officer of any ship surveyed by him under the provisions of this Act, any fee or remuneration otherwise than as provided by this Act, shall be liable to dismissal, in addition to any other penalty to which he may by law be liable.

Penalty for surveyor receiving unauthorized fee, &c.

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and that, should such notice fail to be given, he (the surveyor) is not responsible for any delay or inconvenience which may occur in consequence.

4. This notice (which is to be preserved by the surveyor) must state explicitly the name of the steamer to be surveyed, and the time when, and place at which, she will be ready for inspection.

5. In order to prevent inconvenience and delay to the owners, the surveyors are to be careful to be in attendance at the appointed time and place. Should they be unable to attend as required, notice should be given to the owners to that effect.

6. Should a steamer not be ready for inspection at the time arranged, the surveyors may make such arrangement for the subsequent survey as may be convenient to the owner or his agent. All expenses arising out of this postponement will be charged on the owner when the certificate is issued.

7. If, in consequence of any accident to the steam-ship, or for any other reason, the surveyor considers it necessary to require the vessel to be taken into dock, for the purpose of surveying the hull thereof, he may do so, but he is to be careful to exercise this power only when the circumstances of the case actually require it.

8. The surveyors may go on board any steam-ship at all reasonable times for the purpose of inspection of the vessel, the machinery, the boats or other equipments rendered necessary by the Act, and the owners, masters and engineers of steam-ships are required by the Act to give to the surveyors, on being requested so to do, all such information and assistance within their power as may be requisite for the purpose of making the returns. In the performance of this part of their duty, the surveyors are to be careful to avoid impeding the duty of the vessel or giving offence to any of the officers; but should they be hindered or vexatiously obstructed by any person in the performance of their duties, they are to communicate the same without delay to the Master-Attendant.

9. The surveyors are to make their inspections together, and should do so when the agent, master or chief mate, and engineer of the vessel are present. Repairs can then be ordered, and defects can be pointed out to the proper persons without incurring the uncertainty and delay attendant upon messages delivered to subordinate officers. In the case of iron-vessels, the engineer-surveyor should accompany the shipwright in his examination of such parts of the hull and partitions as are in any manner connected with the machinery, or through which any pipe, valve or shaft connected with the engines may pass. Whenever a shipwright-surveyor intends to inspect a vessel in dock, or on the ground, he should be very careful to notify his intention to the engineer-surveyor, in order that the engineer may also examine the outside part connected with the machinery without the necessity of ordering the vessel to be re-docked.

10. It is a part of the surveyors' duty to report all cases of infringement of this Act which come to their notice, and in reporting them they should take care to state what the evidence is on which their report is founded.

Declarations and certificates.

11. Surveyors are in no case to give a declaration either for the hull or machinery of a steamer unless they are satisfied that all the requirements of the Act have been complied with.

12. Certificates are not to remain in force, under any circumstances, beyond the period of six months.

13. But in any case in which either of the surveyors has reason to believe that the hull or machinery is not fit for so long a time as above-mentioned, he is to grant his declaration for such shorter period as he may deem expedient, informing the owners at the time of his reasons for so doing in such cases; and also in cases in which a joint declaration is refused, he is to give, if required, a statement in writing of the repairs he considers necessary to enable him to grant a declaration of the usual time, provided that no certificate shall be granted for a shorter period than three months.

14. The surveyors shall in all cases specify in the column of remarks of the certificate the number and capacity of the boats carried by the vessel.

15. The surveyors are to keep an account of the persons to whom, and the dates on which, their declarations are given.

16. Every person who knowingly and wilfully makes, or assists in making, or procures to be made, a false or fraudulent declaration or certificate with respect to any steamer requiring a certi-

Fee for survey.

10. For every survey made under this Act the owner or master of the steam-vessel surveyed shall pay to the surveyors making the same a fee calculated on the tonnage of the vessel according to the rates in schedule B hereto annexed.

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ficate, or who forges, assists in forging, or procures to be forged, fraudulently alters, assists in fraudulently altering, or procures to be fraudulently altered, any declaration or certificate, or any words or figures in any such declaration or certificate, or any signature thereto, is guilty of misdemeanour.

17. The Act requires that the certificate shall be put up in a conspicuous place where it will be visible to all persons on board, under a penalty not exceeding Rs. 100 for each offence, and the surveyors are to inform the Master-Attendant of any case of non-compliance with this enactment which may come to their knowledge.

Accident and Damages.

18. In all cases in which a steam-ship has sustained damage from any accident or other cause affecting her seaworthiness or efficiency in any part of her hull, equipments or machinery, the surveyors are to go on board and ascertain the extent of damages. In doing so they will take care not to make any change in the position or condition of things on board which would be at all likely to affect any legal evidence, should an enquiry into the case afterwards be considered necessary.

19. They are forthwith to send a report to the Master-Attendant, in order that the certificate may be cancelled if necessary. In this report they are to state whether the vessel is rendered inefficient or unseaworthy, either in hull or machinery, and whether, in their opinion, the certificate should be cancelled, or only temporarily withdrawn.

20. Unless directions to the contrary are given by the Master-Attendant, the surveyor is to hold the certificate of the vessel during the time the vessel is under repair, and for this purpose he is to require it of the master.

21. Should the master or owner decline to give up the certificate, the surveyor is to send information immediately to the Master-Attendant, so that, if necessary, it may be cancelled.

22. When the vessel is in every respect rendered seaworthy and efficient, both in hull and machinery, to the entire satisfaction of the surveyor, he is to put an endorsement on the certificate to the effect that the damage has been made good so as to last either for the period for which the certificate was granted, or for any limited period for which he may consider it perfectly safe for the vessel to run, and allow the vessel to proceed. He is then to send to the Master-Attendant a statement of the extent of the repair that was necessary, and a copy of the endorsement made on the certificate.

23. In all cases in which a surveyor is directed by the Master-Attendant to obtain from an owner or master a certificate that has expired, or has been cancelled or revoked, he is to apply for it without delay; and, in the event of his application not being attended to, he is at once to report the case.

24. All books, forms and papers required for carrying the Act into effect will be forwarded from time to time by the Master-Attendant.

INSTRUCTIONS TO ENGINEER-SURVEYORS.

Boilers and Machinery.

25. The machinery to be surveyed comprises the engines and the boilers used for propelling the vessel, and all the machinery connected therewith. The boilers of donkey-engines are to be surveyed with the boilers and machinery of the vessel when they are in any way connected with them; but boilers and machinery used for loading and unloading the vessel, or used exclusively for purposes unconnected with the motive power of the vessel, do not form a part of the machinery required to be surveyed by this Act.

26. In the examination of the machinery and boilers, the engineer-surveyor will be particularly careful; he must in no case give a declaration without thoroughly satisfying himself that both the boilers and the rest of the machinery are sufficient for the service intended and in good condition.

27. The engineer-surveyor, in his examination of the machinery and boilers, is particularly to direct his attention to the safety-valves, and whenever he considers it necessary, he is to satisfy himself as to the pressure upon the boiler by actual trial.

Safety-valves.

28. Each boiler must be fitted with a safety-valve, constructed so that it shall be entirely out of the control of the engineer when the steam is up, and so that he may not have the power of increasing the pressure upon it in any manner whilst the vessel is under steam.

11. Each certificate and declaration granted by surveyors under this Act shall be hung up, and remain at all times suspended, in some conspicuous part of the vessel for which the same is granted, where the same may be easily read; and in default of compliance with this provision, every owner or master shall be liable to a penalty not exceeding one hundred rupees for each offence, such fine to be leviable by distraint or sale of personal property.

Certificates to be hung up in conspicuous part of vessel.

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29. The responsibility of seeing to the efficiency of the mode in which this is done rests with the surveyor, but either of the following modes appears to the Master-Attendant to be satisfactory :—

1st.—The valves may either be contained wholly within the boiler and accessible through the manhole only ; or

2nd.—It may be on the outside of the boiler, closed in a box sufficiently large only for the weights and the necessary motion for them, and secured by a lock, of which the key is to be kept by the master of the vessel, who will be responsible should any additional weight or pressure be placed on the valve.

30. No boiler or steam-chamber is to be so constructed, fitted or arranged, as that the escape of the steam from it through the safety-valve can be wholly or partially intercepted by the action of any other valve.

31. The Government safety-valve is in all cases to be of at least the same area as the ordinary safety-valve upon the same boiler, and to bear an equal or less pressure, but not in any case a greater.

32. It is extremely desirable that the safety-valve before-mentioned should be in addition to the ordinary valve, and the surveyor should point out this to the owners of vessels ; but as it is not expressly enjoined by the Act, they are not to refuse a declaration on account of the recommendation not being complied with.

33. The engineer-surveyor is to fix the limits of the weight to be placed on the safety-valves, and in doing so he must be particularly careful.

34. When he has determined the amount of the pressure, he is to see the valve weighted accordingly, and the weights fixed in such a manner as to preclude the possibility of their shifting.

35. The limits of the weight on the valves will have to be inserted in the declaration, and should it at any time come to the knowledge of a surveyor that the weights have been shifted or otherwise altered, or that the valve has in any way been interfered with, he is at once to report to the Master-Attendant.

36. Surveyors are to call the attention of persons connected with the machinery of vessels to the fact that, if any person places an undue weight upon the safety-valve of any steam-ship, or increases such weight beyond the limits fixed by the surveyor, he is, in addition to other liabilities, subject to a penalty of Rs. 100 for every offence.

INSTRUCTIONS TO SHIPWRIGHT-SURVEYORS.

Hull of the Ship.

37. The surveyor is to determine whether the hull of a vessel is in good condition and fit for the service for which she is intended, and he is to examine the bottom of the vessel outside once at least in every year at such a time as is most convenient to the owner.

Boats.

38. It will be the duty of the shipwright-surveyor to take care that all steam-ships are provided with boats according to their tonnage, both as to number and cubic contents, and to be very particular in seeing that they are efficient and in good order and ready for service.

39. These boats must be duly supplied with all requisites for use, and the surveyors are to see that those requisites are in thorough repair, and that they, together with the boats themselves, are always in such a position as to be available without delay in case of danger. The plugs and sholepins are always to be attached to the boats by lanyards. Amongst the requisites for use there must be included efficient means for lowering the boats into the water safely and expeditiously; and surveyors are to refuse declarations in cases in which the boats are in such a position as not to be ready for use in an emergency, or in which efficient means are not provided for lowering them.

40. It is to be left to ship-owners themselves to provide such methods as they please for lowering the boats, so long as the intention of the legislature is, in the surveyor's judgment, complied with.

Duration of certificate.

12. No certificate or declaration shall be held to be in force for the purposes of this Act after the expiration of six calendar months from the date thereof.

Proviso as to vessels absent when certificate expires.

Provided that, if any steam-vessel shall not be in any port of survey[a] when her certificate and declaration expire, no penalty shall be incurred for the want of a certificate and declaration, until she first begins to ply or is about to ply after her next subsequent arrival at some port of survey.[b]

Delivery of expired or revoked certificate.

And the Lieutenant-Governor of Bengal, or any officer appointed by him for that purpose,[c] may require any certificate and declaration, which has expired or has been revoked or cancelled, to be delivered up as may be directed; and any owner or master or other person who, without reasonable cause, neglects or refuses to comply with such requirement, shall incur a penalty not exceeding one hundred rupees for each offence.

Power to cancel certificate and declaration.

13. The Lieutenant-Governor of Bengal, or any officer appointed or authorized by him for that purpose,[d] may revoke and cancel any certificate and declaration granted under this Act in any case in which he has reason to believe—

(1) that the certificate and declaration of the sufficiency and good condition of the hull, equipments and machinery of any steam-vessel, or either of them, have been fraudulently or erroneously given or made: or

(2) that such certificate and declaration have otherwise been issued upon false or erroneous information: or

(3) that since the giving and making of such certificate and declaration, the hull, equipments or machinery of such ship have sustained any injury, or are otherwise insufficient.

And in every such case the Lieutenant-Governor of Bengal, or such officer as last aforesaid, may, if he thinks fit, require the owner or master to have such steam-vessel again surveyed as herein provided.

When Government may order second survey by other surveyors.

14. If any steam-vessel shall be surveyed under the provisions of this Act, and if the surveyors shall decline to give any certificate or declaration, or shall give a certificate or declaration with which the owner or master of the steam-vessel shall be dissatisfied, the Lieutenant-Governor of Bengal may,

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Life-buoys.

41. Life-buoys should in all cases be carefully examined by the surveyor, in order to satisfy himself of their buoyancy, to see that the material of which they are composed has not become sodden, and that the lines attached to them are sufficient.

42. The steam-whistle in use as a fog-signal should be surveyed by the engineer-surveyor as well as by the shipwright, and care should be taken that both it and the fog-horn and bell are in a serviceable condition.

a, b Bengal Act No. I of 1868, section 4.

c, d The Master-Attendant, *Calcutta Gazette*, 1862, p. 2211.

on the application of such owner or master, appoint two other competent surveyors to survey the said steam-vessel.

The surveyors so appointed shall forthwith survey the said steam-vessel and shall either decline to give any certificate and declaration, or shall give such certificate and declaration as under the circumstances may seem to them proper.

Every survey made under this section shall be made subject to all the provisions and rules both as to the payment of fees and otherwise, which are applicable to surveys made in ordinary cases under this Act.

If the surveyors appointed under this section unanimously refuse to give any certificate and declaration, or agree as to the terms of their certificate and declaration, such refusal or such certificate and declaration shall be final and conclusive; but if they do not agree, the refusal originally made, or the certificate and declaration originally granted, by the surveyors who surveyed the said steam-vessel in the first instance, shall remain and be of full force and effect.

Offences under Act by whom tried.

15. Any case arising out of this Act may be tried by any officer having the full powers of a Magistrate within whose jurisdiction the offence may have been committed, or by any Police Magistrate of the town of Calcutta. The provisions of section 66 of the Indian Ports Act, 1875[a] are hereby extended to all penalties imposed under this Act; and all fees due under section 10 of this Act shall be recoverable in like manner as penalties are recoverable.

"Surveyors" includes surveyor acting alone.

16. The word "surveyors" as used in this Act shall be taken to include any surveyor acting alone when authorized so to do by the Lieutenant-Governor of Bengal under the provisions of this Act.

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[a] See Act No. XII of 1875, section 3, clause 3.

SCHEDULE A.

Form of Surveyors' Certificate and Declaration.

Name of Steam-vessel.	Tonnage.	When and where built, and Material.	Power.	Description of Engines and Age.	Description of Boilers and Age.	Ground Tackle.	Condition of Hull.	General Equipment.	Name of Master and Number of Officers and deck-crew and of Engineers and Engine-room crew.	When and where last coppered, repaired, or cleaned.	Limits (if any) beyond which the Vessel is not fit to ply.	Time, if less than six months, for which the Hull, Boilers, Engines, or any of the Equipments will be sufficient.	REMARKS.

We, the undersigned, declare that we have examined the above-named steamer, and, to the best of our judgment, she and her engines, as shewn in the above statement, are fully sufficient for the service on which it is intended to employ the said steamer; that is to say, for (*as the case may be*).

A. B.
C. D.

SCHEDULE B.

Rates of Fees to be charged—(referred to in section 10).

	Rs.	A.	P.
For steamers of less than 200 tons	20	0	0
„ „ 200 tons and up to 350	25	0	0
„ „ 350 „ „ „ 700	30	0	0
„ „ 700 „ „ „ 1,000	40	0	0
„ „ 1,000 „ „ „ 1,500	50	0	0
„ „ 1,500 „ and upwards	60	0	0

ACT No. VI OF 1862.

Received the Lieutenant-Governor's assent on the 22nd of April 1862, and the Governor General's assent on the 1st of May 1862.

An Act to amend Act X of 1859 (to amend the law relating to the recovery of Rent in the Presidency of Fort William in Bengal).[a]

Preamble.

WHEREAS it is expedient to amend Act X of 1859, so far as the same relates to the Provinces subject to the Government of Bengal; It is enacted as follows :—

Repeal of certain sections of Act X of 1859.

1. Sections 26, 40, 74, 79, 86, 150 and 162 of Act X of 1859 are hereby repealed, except as regards suits under the said Act X of 1859 instituted prior to the passing of this Act.

When Court may award to plaintiff additional damages not exceeding 25 per cent.

2. In any suit hereafter to be brought for rent under Act X of 1859, if it shall appear to the Court that the defendant has without reasonable or probable cause neglected or refused to pay the amount due by him, and that he has not before the institution of the suit tendered such amount to the plaintiff or his duly authorized agent, or, in case of refusal of the plaintiff or such agent to receive the amount tendered, has not deposited such amount with the Collector before the institution of the suit in manner hereinafter mentioned, it shall be

[a] Repealed by Bengal Act No. VIII of 1869, section 107, in places in which that Act takes effect.

lawful for the Court to award to the plaintiff, in addition to the amount decreed for rent and costs, such damages, not exceeding twenty-five per cent. on the amount of rent decreed, as the Court may think fit.

These damages, if awarded, as well as the amount of rent and costs decreed in the suit, shall carry interest at the rate of twelve per cent. per annum from the date of decree until payment thereof, and shall be recoverable from the defendant in like manner as sums decreed to be paid by defendants under Act X of 1859 are recoverable.

Court may award to defendant compensation not exceeding 25 per cent. on amount improperly sued for.

3. In any suit hereafter to be brought for rent under Act X of 1859, if it shall appear to the Court that the plaintiff has instituted the suit against the defendant without reasonable or probable cause, or that the defendant before the institution of the suit duly deposited with the Collector in the manner hereinafter mentioned the full amount which the Court shall find to have been due to the plaintiff at the date of such deposit, it shall be lawful for the Court to award to the defendant by way of compensation such sum, not exceeding twenty-five per cent. on the whole amount claimed by the plaintiff, as the Court may think fit, and such sum, with interest at the rate of twelve per cent. per annum until payment thereof, shall be recoverable from the plaintiff in like manner as sums decreed to be paid by defendants under Act X of 1859 are recoverable.

Under-tenant or raiyat may, after tender, pay into Court, without suit brought, what he admits to be due to Zamíndár, &c.

Payment into Court to have effect of payment to Zamíndár or person entitled.

4. If any under-tenant or raiyat shall, at the mál kachahrí for the receipt of rents or other place where the rents of the land held or cultivated by him are usually payable, tender payment [a] of what he shall consider to be the full amount of rent due from him at the date of the tender to the zamíndár or other person in receipt of the rent of such land, and if the amount so tendered shall not be accepted, and a receipt in full forthwith granted, it shall be lawful for the under-tenant or raiyat, without any suit having been instituted against him, to deposit such amount in the Collector's Court, to the credit of the zamíndár or other person aforesaid: and such deposit shall, so far as the under-tenant or raiyat and all persons claiming through or under him are concerned, in all respects operate as and have the full effect of a payment then made by the under-tenant or raiyat, of the amount deposited, to such zamíndár or other person.

Proceedings in payment into Court.

5. The Collector shall receive such deposit on the application of the under-tenant or raiyat, or his agent, made in writing, and on the under-tenant or raiyat, or his agent, making a declaration in the form, or as nearly as circumstances will admit in the form, set forth in the schedule (A) hereto annexed, and the Collector shall give a receipt for the same.

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[a] *Umacharan Sett* v. *Hariprosad Missry*, 1 Beng., Short Notes, vii.

If the declaration shall contain any averment which the person making the declaration shall know or believe to be false or shall not know or believe to be true, such person shall be subject to punishment according to the law for the time being in force for the punishment of giving or fabricating false evidence.

Upon receiving the money so deposited, the Collector shall issue a notice to the person to whose credit it has been deposited, in the form set forth in the schedule (B) hereto annexed, and such notice shall be served by the Collector, without the payment of any fee, either upon the person to whom it is addressed or upon his náib, gumáshta or other agent, and in the absence of any such agent, it shall be served by sticking up a copy of the same in the office of the Collector, and another copy at the mál kachahrí for the receipt of rents or other place where the rents are usually paid for the land in respect of which the money has been deposited.

Payment to creditor.

If the person to whom such notice is issued, or his duly authorized agent, shall appear and apply that the money in deposit be paid to him, it shall be immediately made over to him.

Limitation of suit for further balance.

6. Whenever a deposit shall have been made under the provisions of this Act, no suit shall be brought against the person making the deposit or his representatives on account of any rent which accrued due prior to the date of the deposit, unless such suit is instituted within six months from the date of the service of the notice in the fifth section of this Act mentioned.

After suit brought defendant may pay into Court, without costs, money tendered before.

7. The defendant in any suit under this Act or under Act X of 1859 instituted after the passing of this Act may, if he have duly tendered the same to the plaintiff before the institution of the suit, pay into Court such sum of money as he shall consider to be due to the plaintiff without paying in any costs incurred by the plaintiff up to the time of such payment, and such sum shall be immediately paid out of Court to the plaintiff.

Costs if plaintiff goes on and recovers no more.

If after such payment the plaintiff elects to proceed in the suit and ultimately recovers no further sum than shall have been paid into Court, the plaintiff shall be charged with the whole costs of the suit incurred by the defendant; but if the plaintiff ultimately recovers a further sum than shall have been paid into Court, the defendant shall be charged with the whole costs of the suit.

If no previous tender has been made, defendant may pay into Court what he admits to be due with costs on that sum.

8. The defendant in any suit under this Act or under Act X of 1859 instituted after the passing of this Act may, without having made any tender before action brought, pay into Court such sum of money as he shall consider to be due to the plaintiff, together with the costs (to be fixed by the Court if necessary, as of a suit originally instituted for the amount so paid into Court) incurred by the plaintiff up to the time of such payment, and such sum shall immediately be paid out of Court to the plaintiff.

Costs if plaintiff goes on with suit.

If after such payment the plaintiff elects to proceed in the suit and ultimately recovers no further sum than shall have been paid into Court, he shall be charged with all costs incurred by the defendant subsequently to such payment; but if the plaintiff ultimately recovers a further sum than shall have been paid into Court, the defendant shall (including the sum paid into Court by him in the first instance on account of costs) be charged with costs as upon a suit originally instituted for the whole amount for which the plaintiff ultimately obtains a decree.

Survey and measurement of lands.

9. Every proprietor of an estate or tenure, or other person in receipt of the rents of an estate or tenure, has a right of making a general survey and measurement of the lands comprised in such estate or tenure, or any part thereof, unless restrained from doing so by express engagement with the occupants of the lands.[a]

If any person intending to measure any land which he has a right to measure, is opposed in making such measurement by the occupant of the land; or if any under-tenant or raiyat, having received notice of the intended measurement of land held or cultivated by him which is liable to such measurement, refuses to attend and point out such land, such person may make application to the Collector, and the Collector shall thereupon proceed to enquire into the case in the manner provided for suits under Act X of 1859, and shall pass a decision either allowing or disallowing the measurement, and, if the case so require, enjoining or excusing the attendance of any such under-tenant or raiyat.

If any under-tenant or raiyat, after the issue of an order enjoining his attendance, neglects to attend and to point out the land, it shall not be competent to him to contest the correctness of the measurement made or any of the proceedings held in his absence.

Measurement of lands, where it cannot be ascertained who are liable to pay rent.

10. If the proprietor of an estate or tenure, or other person entitled to receive the rents of an estate or tenure, is unable to measure the lands comprised in such estate or tenure or any part thereof, by reason that he cannot ascertain who are the persons liable to pay rent in respect of the lands or any part of the lands comprised therein, such proprietor or other person may petition the Collector in respect of the lands which he cannot measure as aforesaid, and the Collector thereupon, and on the necessary costs being deposited with him by the applicant, shall proceed to measure the land and to ascertain and record the names of the persons in occupation of the same, or on the special application of the proprietor or other person aforesaid, but not otherwise, shall proceed to ascertain, determine, and record the tenures and under-tenures, the rates of

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[a] *Prasannamayi Debi* v. *Chandra Nath Chowdry*, 2 Beng., Short Notes, 5: and see 3 Beng., Appendix, 27, 63, 78: 6 Beng. 361.

rent payable in respect of such lands, and the persons by whom respectively the rents are payable.

The provisions of section 67 of Act X of 1859 shall apply to any proceeding of the Collector instituted under this section.

If after due enquiry the Collector shall be unable to measure the land, or to ascertain or record the names of the persons in occupation of the same, or if he shall (in any case in which such special application shall have been made as aforesaid) be unable to ascertain who are the persons having tenures or under-tenures in such lands or any part thereof, then and in any such case he may declare the same to have lapsed to the party on whose petition he has made the enquiry.

If any person, within fifteen days after the Collector shall have recorded the name of such person as being in occupation of such land or any part thereof, or shall have declared a tenure to have lapsed, shall appear and show good and sufficient cause for his previous non-appearance, and shall satisfy the Collector that there has been a failure of justice, the Collector may, upon such terms or conditions as he may think proper, alter or rescind his declaration according to the justice of the case.

Save as aforesaid, the decision of the Collector on all matters enquired into and determined by him under this or the last preceding section, shall be final, unless the same shall be reversed on appeal therefrom to the civil Court.

Such appeals shall lie to the zila judge or to the sadr Court subject to the provisions and conditions contained in sections 160 and 161 of Act X of 1859.

Measurements to be by pargana pole.

11. All measurements made under this Act shall be made by the standard pole of measurement of the pargana in which the land is situated.[a]

Form of plaint in suits for arrears of rent.

12. In any suit hereafter to be brought for the recovery of an arrear of rent, the statement shall specify the name of the village and estate and of the pargana or other local division in which the land is situate, the yearly rent of the land, the amount (if any) received on account of the year for which the claim is made, the amount in arrear, and the time in respect of which it is alleged to be due.

If the arrear is alleged to be due from any raiyat, the statement shall further specify the quantity of land, and where fields have been numbered in a Government survey, the number (if it be possible to give it) of each field.

Order under section 58, Act X, 1859, to set aside judgment to be final, but rejection of

13. In all cases in which the Collector shall pass an order under section 58 of Act X of 1859 for setting aside a judgment, the order shall be final; but in all appealable cases in which the Collector shall reject the application, an appeal shall lie from the order of rejection to the tribunal to which the final

[a] 3 Beng., Appendix, 63.

application to set it aside appealable.

decision in the suit would be appealable: provided that the appeal be preferred within the time allowed for an appeal from such final decision.

Fees to agents and mukhtárs.

14. So much of section 71 of Act X of 1859 as directs that no fee for any agent shall be charged as part of the costs of suit in any case under the Act, is hereby repealed.

In awarding costs to either party in any suit hereafter to be brought under the said Act or under this Act, it shall be competent for the Collector to award to such party, on account of the fees of any agent or mukhtár employed by him, such a sum, not exceeding the rate of fee chargeable under the provisions of section 7 of Act I of 1846 [a] for pleaders in the civil Courts, as the Collector may direct.

Language of Collector's judgment.

15. The Collector shall pronounce judgment in all cases tried under this Act or under Act X of 1859 in open Court.

The judgment shall be written in the vernacular language of the Collector and shall contain the reasons for the same, and shall be dated and signed by the Collector at the time when it is pronounced.

Provided that if the vernacular language of the Collector be not English, and the Collector be sufficiently conversant with the English language

[a] Repealed by Act No. XX of 1865. The repealed section ran as follows:—

7. And it is hereby enacted, that parties employing authorized pleaders in the said courts shall be at liberty to settle with them by private agreement the remuneration to be paid for their professional services, and that it shall not be necessary to specify such agreement in the vakálatnáma; provided that, when costs are awarded to a party in any regular suit, original or appeal, decided on the merits, against another party, the amount to be paid on account of fees of pleaders shall be calculated according to the rules contained in the sections of Regulations specified in section 6 of this Act; and that when costs are awarded in other cases, the amount to be paid on account of such fees shall be one-fourth of what it would have been in a regular suit decided on its merits.

And Bengal Regulation XXVII of 1814, section 25, above referred to, ran as follows:—

25. *First.*—In all regular suits which may be instituted, either originally or in appeal, subsequently to the 1st of February, 1815, in any of the zila or city Courts, the Provincial Courts or the Sadr Díwání Adálat, the vakíls employed by the respective parties are to be allowed for pleading the causes of their clients the rates of fees calculated as follows:—

In suits for money, effects or for other personal property, or for land or other immoveable property of any description, if the amount or value of the claim estimated according to the provisions of section 14, Regulation I, 1814, shall not exceed 5,000 sikká rupees, five per cent.

If the amount or value shall exceed 5,000 rupees, and shall not exceed 20,000 sikká rupees, on 5,000 as above, and on the remainder two per cent.

If the amount or value shall exceed 20,000 rupees, and shall not exceed 50,000 rupees, on 20,000 as above, and on the remainder one per cent.

If the amount or value shall exceed 50,000 sikká rupees, and shall not exceed 80,000 sikká rupees, on 50,000 as above, and on the remainder eight annas per cent.

If the amount or value shall exceed 80,000 rupees, the fee to the vakíl shall be 1,000 rupees, and shall in no instance exceed that sum, however great may be the value or amount of the suit in which such vakíl may be employed.

Second.—In all the preceding calculations, where the amount or value may be in fractions of rupees, such fractions are to be rejected in calculating the fees thereupon.

Third.—The rules heretofore in force providing for a deduction of five per cent. from the amount of the fees payable to vakíls having been rescinded by Regulation I, 1814, it is hereby declared, that the vakíls are to receive the full amount of their fees without any deduction whatsoever; provided, nevertheless, that for every sum which may be paid to a vakíl by a civil Court on account of his fees, such vakíl shall give a receipt written on the stamped paper prescribed in section 11, Regulation I, 1814.

to be able to write a clear and intelligible decision in that language, and prefer to write his judgment in it, the judgment may be written in English.

Attachment before judgment.

16. The provisions relating to attachment before judgment contained in sections 81 to 90, both inclusive, of Act VIII of 1859[a] (*for simplifying the Procedure of the Courts of Civil Judicature not established by Royal Charter*) are hereby extended to all suits hereafter to be brought under this Act or Act X of 1859.

Execution to issue at time of decree on oral application; afterwards on application in writing.

17. Process of execution in any suit hereafter to be instituted under this Act or under Act X of 1859, may be issued against either the person or the property of a judgment-debtor, but process shall not be issued simultaneously against both person and property.

It may be issued on the oral application of the judgment-creditor, his agent or mukhtár, made at the time the judgment is pronounced, or thereafter upon the written application of the judgment-creditor, his agent or mukhtár, presented to the Court by which the judgment was given.

Process of execution against the person or moveable property of a debtor shall be in the form (E) or the form (F) contained in the schedule to Act X of 1859, or in a form as nearly resembling those forms as the circumstances of the case may admit.

If person is arrested under section 145, Act X. 1859, case to be disposed of at once.

18. If any person shall after the date of the passing of this Act be arrested under section 145 of the said Act X of 1859, he shall be brought before the Collector with all convenient speed, and the Collector shall proceed forthwith to try the case.

If the case cannot be at once heard and determined, the Collector may, if he think fit, require the person arrested to give security for his appearance whenever the same is required.

In default of such security the person arrested shall be committed to the civil jail till the case is heard.

Deputy Collector's powers.

19. All the powers vested in the Collector by any of the sections of this Act or of Act X of 1859, may be exercised by any Deputy Collector in cases referred to him by a Collector, and in all cases without such reference by any Deputy Collector placed in charge of any sub-division of a district, or who is specially authorized by Government to receive such cases; and all applications and reports allowed or required by the said Act X of 1859, or by this Act, to be made to the Collector, may be made to any Deputy Collector having such local jurisdiction or such special authority as aforesaid.

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[a] Replaced by Act No. X of 1877, sections 483—489 (inclusive), 491, and 588, clause (*r*). There is no section in the new Code corresponding to section 90 of Act No. VIII of 1859.

In what Court suits to be instituted.

20. Suits under this Act or under Act X of 1859 shall be preferred in the revenue-office of the district, or when a sub-division of a district has been placed under the jurisdiction of a Deputy Collector, in the revenue-office of the sub-division in which the cause of action shall have arisen, or when the cause of action shall have arisen within the limits of the local jurisdiction of any Deputy Collector not in charge of a sub-division but who has been specially authorized by Government to receive such suits, then in the office of such last-mentioned Deputy Collector.[a]

Provided always that the Collector may withdraw any suit from any Deputy Collector, and try it himself, or refer it to another Deputy Collector.

If the lands comprised in any taluq, farm or other tenure, or any lands held under one lease or engagement, or at one entire rent, in respect of which arrears of rent may be due, are situated in more than one district or sub-division, or within the local limits of the jurisdiction of more than one Deputy Collector so specially authorized as aforesaid, the district, or sub-division, or local limits in which the greater part of such lands is situate, shall be held to be the district or sub-division, or local limits, in which the cause of action has arisen, and if any question shall be raised respecting the district or sub-division, or local limits, within which the greater part of the lands is situate, the Board of Revenue, or, if all the lands be situate in one district, the Collector of the district shall decide the question, and such decision shall be conclusive on the point of jurisdiction.

Act to be read with Act X. 1859.

21. This Act shall be read with and taken as part of Act X of 1859, except as regards suits instituted thereunder before the passing of this Act.

SCHEDULE A.[b]

I, *A. B.*, of *&c.*, do solemnly declare that I did personally (*or* by my agent *C. D.*) on the day of tender payment to *E. F.* at his mál-kachahrí (*or at*) the place where the rent of the lands at held or cultivated by me under or from the said *E. F.*, are usually payable, of the sum of Company's rupees as and for the whole amount due from me in respect of the rent of the said lands from the month of to the month of both inclusive. I further

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[a] *Parna Chunder Chatterjee* v. *Macarthur*, 3 Beng. A. C. J. 366.

[b] If this declaration is made by an agent, it must be altered accordingly.

declare that the said *E. F.* refused to accept the said sum so tendered (or to give me a receipt in full forthwith for the same). And I do declare that to the best of my belief the sum of Company's rupees so tendered and which I now desire to pay into Court, is the full amount which I owe the said *E. F.* on account of the rent of the said lands from the month of to the month of both inclusive, and that I owe the said *E. F.* no further sum on account of the rent of the said lands.

SCHEDULE B.[a]

Court of the Collector (*or* Deputy Collector) of

Dated the day of 18

To *E. F.* of, &c.

With reference to the within declaration you are hereby informed that the sum of Company's rupees therein mentioned is now in deposit in this Court, and that the above sum will be paid to you or to your duly authorized agent on application. And take notice that if you have any further claim or demand whatsoever to make against the said *A. B.* in respect of the rent of the said lands, you must institute a suit in Court for the establishment of such claim or demand within six calendar months from this date; otherwise your claim will be for ever barred.

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[a] This is to be by endorsement on a copy of the declaration under schedule A made by the person paying the money into Court.

ACT No. VII of 1862.

Received the Lieutenant-Governor's assent on the 29th of April 1862, and the Governor General's assent on the 1st of May 1862.

An Act to repeal section 30 of Regulation II. 1819 (for modifying the provisions contained in the existing Regulations regarding the resumption of the revenue of lands held free of assessment under illegal or invalid tenures, and for defining the right of Government to the revenue of lands not included within the limits of estates for which a settlement has been made).

Preamble.

WHEREAS by section 30 of Regulation II. 1819, it is enacted that certain suits preferred in a court of judicature regarding lands held, or claimed to be held, free of assessment, shall be referred for investigation to the Collector, and that similar suits may be preferred in the first instance to the Collector; and whereas such reference of suits is unnecessary and causes inconvenience and delay in their decision, and it is advisable that such suits should be preferred and disposed of exclusively in the ordinary courts of civil judicature; It is enacted as follows:—

1.—[*Repealed by Act No. XII of 1873.*]

Suits for resumption of land held free of assessment, claims to hold land exempt from revenue to be tried in civil Courts.

2. All suits preferred by proprietors, farmers or taluqdárs to resume the revenue of any land held free of assessment, as well as all suits preferred by individuals claiming to hold land exempt from the payment of revenue, shall be instituted, heard and determined in and by the courts of civil judicature, like ordinary civil suits, and under the rules and subject to all the provisions contained in the Code of Civil Procedure[a] and not otherwise.

ACT No. VIII of 1862.

Received the Lieutenant-Governor's assent on the 6th of May 1862, and the Governor General's assent on the 8th idem.

An Act to improve the system of zamíndárí Dáks in the Provinces subject to the Government of Bengal.

Preamble.

WHEREAS the conveyance of letters on the public service between Police-officers and Police-stations and the magisterial offices of the districts subject

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[a] Act No. X of 1877.

to the Government of Bengal is defective, irregular and uncertain, and the system requires to be amended and placed on a better footing; It is enacted as follows:—

1.—[*Repealed by Act No. XII of 1873.*]

Appointment, removal and payment of dák-runners.

2. The appointment, removal and payment of dák-runners and other persons necessary for the performance of the service of conveying papers, letters, packets and correspondence between Police-officers and Police-stations and magistrates of districts, or officers in charge of sub-divisions, shall be vested exclusively in the magistrate of each district, or in such other officer as the Government may from time to time direct.

Raising of funds for maintaining zamíndárí dáks.

3. It shall be lawful for the magistrate of every district or for such other officer as the Government may from time to time direct to raise, as hereinafter provided, the monies necessary for the payment of the establishments required for the purpose of efficiently maintaining the zamíndárí dáks within the district, from all zamíndárs, sadr farmers and other persons paying revenue direct to Government in respect of lands situated within the district.

No zamíndárí dák where there is Government post.

4. Provided always that no zamíndárí dák shall be established or maintained under this Act between any two places between which a Government post for the time being exists.

Total sum necessary to be fixed and apportioned rateably on sadr jama of those liable to contribute.

5. The magistrate or such other officer as aforesaid shall in each and every year, on or before the last day of the month of December, fix, subject to the approval and revision of the Commissioner of the division, the total sum necessary for the next ensuing year for the efficient service of the zamíndárí dáks in his district, and apportion such amount rateably on the sadr jama of the parties liable as aforesaid to pay the same, and shall appoint the days for the payment thereof.

Notice of amount to be levied, its apportionment, and days of payment.

6. A notice shewing the amount to be levied for the ensuing year and the rateable apportionment thereof among the persons liable to pay the same, and the days appointed for payment thereof, shall be affixed in some conspicuous place in the office of the magistrate or of such other officer as aforesaid, and also in the office of the collector of the district, not less than fifteen days previous to the day appointed for the first half-yearly payment.

Appeal when assessment on one person exceeds forty rupees in year.

7. An appeal shall lie to the Commissioner of the division from any order of a magistrate or such other officer as aforesaid imposing on any one person a pecuniary liability for more than forty rupees a year under section 5 of this Act.

Proviso.

Provided that such appeal shall be presented to the Commissioner within thirty days from the date of affixing in the office of the magistrate or of such other officer as aforesaid the notice of the imposition of the liability appealed against.

Exemption from assessment.

8. It shall be lawful for such magistrate or other officer aforesaid, by an order to that effect, to exempt from the liability to payment of an assessment under this Act any person the sadr jama of whose estates in any one district does not exceed fifty rupees a year.

Payment to be half-yearly, in advance:

9. The sums leviable under this Act shall be paid into the district-treasury half-yearly and in advance by the persons liable to pay the same; and any person or the local agent of any person liable to pay any sum assessed under this Act, who shall refuse or shall for the space of thirty days after the day appointed for the payment thereof neglect to pay the same, shall be liable to pay double the amount so assessed, which said double amount, in default of immediate payment, shall be levied by the order of the magistrate or of such other officer as aforesaid by distraint and sale of moveable property of the person making default.

Double amount to be levied on default.

Proviso.

Provided always that no person shall become liable to pay double the amount originally assessed, so long as any appeal instituted by him under section 7 of this Act shall be pending.

Surplus carried to credit of next year's dák-account.

10. If the whole of the sum raised for the service of any one year be not actually required for that service, the surplus shall be placed to the credit of the zamíndárí dák-account for the next ensuing year, and shall go in reduction of the total sum to be levied for the service of that year under this Act: and when a double amount is levied under the last preceding section, so much thereof as is in excess of the sum for which the person from whom it is levied was in the first instance assessed, shall in like manner be placed to the credit of the next ensuing year's account, and go in reduction of the total sum to be levied for that year.

Government to frame general rules.

11. The Government may from time to time frame general rules for the guidance of the Authorities and for the transport of the dáks established by this Act, provided such rules be not incompatible with its provisions, or with the provisions of the Indian Post Office Act, 1866,[a] or with any rules made under that Act by the Governor General of India in Council.[b]

Act not to affect contracts between zamíndárs and under-tenants.

12. Nothing in this Act contained shall in any way affect or alter any contract or engagement made or to be made by any zamíndár with any person holding under him.

Commencement.

13. This Act shall take effect on and from the first day of December next.

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[a] Act No. XIV of 1866: see section 4.

[b] See *Calcutta Gazette*, 15th August, 1877, Part I, p. 1003: *ibid.*, 19th September, 1877, Part I, p. 1289.

ACT No. II of 1863.

Received the Lieutenant-Governor's assent on the 17th of January 1863, and the Governor General's assent on the 21st idem.

An Act to abate and prevent nuisances arising from the smoke of furnaces in the town and suburbs of Calcutta.

Preamble.

WHEREAS it is expedient to abate and prevent nuisances arising from the smoke of furnaces in the town and suburbs of Calcutta; It is enacted as follows:—

Furnaces in town and suburbs of Calcutta to consume the own smoke.

1. Every furnace employed or to be employed anywhere within the town or suburbs of Calcutta in the working of engines by steam, and every furnace employed or to be employed within the said town or suburbs in any works, or in any building used for the purposes of trade or manufacture (although a steam-engine be not used or employed therein), shall be constructed or altered so as to consume or burn the smoke arising from such furnace on and after the first day of July, 1864.

And if any person, on or after the said first day of July, 1864, and within the town and suburbs aforesaid, shall use any such furnace which shall not be constructed or altered so as to consume or burn its own smoke, or shall so negligently use any such furnace as that the smoke arising therefrom shall not be effectually consumed or burned, or shall not use the best practicable means for preventing or counteracting such smoke, every person so offending, being the owner or occupier of the premises, or being a foreman or other person employed by such owner or occupier in charge of such furnace, shall, upon a summary conviction for such offence before any Magistrate, forfeit and pay a sum of not more than fifty rupees, and upon a second conviction for such offence the sum of one hundred rupees, and for each subsequent conviction a sum double the amount of the penalty imposed for the last preceding conviction.

Exception as to locomotive engines and steam-vessel

Provided always that this Act shall not apply to any locomotive engine used wholly upon any railway in the suburbs of Calcutta, nor to any steam-vessel which is not employed as a ferry-boat plying from any one place within the said town and suburbs of Calcutta to any other place within the said limits.

"Consume or burn the smoke" defined.

2. The words "consume or burn the smoke" as used in this Act shall not be held to mean "consume or burn every particle of the smoke," and the Magistrate before whom any person shall be summoned may remit the penalties enacted by this Act, if he shall be satisfied that such person has so constructed or altered his furnace as to consume or burn, as far as possible, all the

smoke arising from such furnace, and has carefully attended to the same, and consumed or burned, as far as possible, the smoke arising from such furnace.

lagistrate ıay grant ·der giving)wer to ıspect fur- ıce.

3. It shall be lawful for any Magistrate to grant an order authorizing any person therein named to inspect any furnace to which the provisions of this Act shall apply and to examine the construction thereof.

enalty for)structing ıspection.

If the owner or occupier of any premises to which the provisions of this Act shall apply, shall refuse to allow his premises to be inspected by a person duly authorized by a Magistrate for that purpose, it shall be lawful for any Police-officer or other person authorized by the order in writing of a Magistrate, with or without any assistants, to enter into and upon such premises and to inspect the same and examine any furnace therein; and any person obstructing any such Police-officer or other person or his assistants in the execution of any such order shall, upon a summary conviction for such offence before a Magistrate, forfeit and pay a sum not exceeding two hundred rupees.

ıformation)w to be laid.

4. No information shall be laid against any person for the recovery of any penalty under this Act, except by the authority of a Magistrate.

Magistrate" ·fined.

5. In this Act the word "Magistrate," as regards cases arising within the local limits of the town of Calcutta, shall mean any Magistrate of Police for the said town, and as regards cases arising without the said town, shall mean any officer having the full powers of a Magistrate: and the term "suburbs of Calcutta" shall include the suburbs of Calcutta and the station of Howrah as defined and described in Act XXI of 1857[a] *(for making better provision for the order and good government of the suburbs of Calcutta and of the station of Howrah)*.

Suburbs."

'ords in ıgular num- r include e plural.

6. Words used in the singular number in this Act shall be held to comprise the plural, and words used in the plural number to comprise the singular.

:ecovery of nalties.

7. All penalties imposed by this Act may be recovered, if for offences not committed within the local limits of the town of Calcutta, in the manner prescribed for the recovery of fines by the Code of Criminal Procedure, section 307, and if for offences committed within those limits, in the manner prescribed for the recovery of penalties by any Act for regulating the Police of the town of Calcutta in force for the time being.

nalties how ıposed of.

All penalties to be levied under this Act shall be disposed of in such manner as the Lieutenant-Governor of Bengal from time to time shall direct.

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[a] See *supra*, p. 333.

[b] Act No. X of 1872.

ACT No. IV of 1863.

Received the Lieutenant-Governor's assent on the 24th of March 1863, and the Governor General's assent on the 13th of April 1863.

An Act to amend Act XXII of 1860 (to remove certain tracts on the eastern border of the Chittagong district from the jurisdiction of the tribunals established under the general Regulations and Acts).[a]

Preamble.

WHEREAS by Act XXII of 1860[b] certain tracts on the eastern border of the Chittagong district, described in the schedule to the said Act, were removed from the jurisdiction of the tribunals established under the general Regulations and Acts; and whereas it is expedient to make certain alterations in respect to the tracts so removed; It is enacted as follows:—

Act to be read with Act XXII 1860.

1. All the provisions of the said Act applicable to the tracts described in the said schedule, shall be applicable to, and shall have effect in, the tracts described in the schedule to this Act annexed, which shall be read with and taken as part of the said Act XXII of 1860.

SCHEDULE.

[*See above, p. 421.*]

ACT No. II of 1864.

Received the Lieutenant-Governor's assent on the 11th of February 1864, and the Governor General's assent on the 24th idem.

An Act for the regulation of jails and the enforcement of discipline therein.

Preamble

WHEREAS it is expedient that the laws relating to jails in the Provinces under the control of the Lieutenant-Governor of Bengal should be consolidated and amended; It is enacted as follows:—

1.—[*Repealed by Act No. XII of 1873.*]

Interpretation.

2. The following words and expressions in this Act shall have the meanings

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[a] Repealed, except as to Scheduled Districts in Lower Provinces, by Act No. XIV of 1874.

[b] See *supra*, p. 419.

hereby assigned to them, unless there be something in the context repugnant to such construction, that is to say—

'Magistrate of the District.'' the words "Magistrate of the District" shall mean the chief officer charged with the executive administration of a district or place in criminal matters by whatever designation such officer is called:

'Magistrate.'' the word "Magistrate" shall include all persons exercising all or any of the powers of a Magistrate:

The powers of a Magistrate" the words "the powers of a Magistrate" shall imply the full powers of a Magistrate:

Criminal Court." the words "Criminal Court" shall denote every Judge or Magistrate lawfully exercising jurisdiction in criminal cases, whether for the decision of such cases in the first instance or on appeal, or for commitment to any other court or officer:

District." the local jurisdiction of the Magistrate of a district or place shall, for the purposes of this Act, be deemed a "District," and the local jurisdiction in a particular part of a district vested in a Magistrate other than the Magistrate of the district shall be deemed a "Division of a District:"

Division of District."

Gender. words importing the masculine gender shall include the feminine, and

Number: words importing the singular number shall include the plural.

Civil and criminal jails to be maintained. **3.** In every district there shall be maintained a civil jail and a criminal jail, for the imprisonment of persons lawfully committed to such jails respectively.

Jails of the like description shall be maintained in every division of a district wherein the Government of Bengal may deem them to be necessary.

Central jails to be maintained. **4.** In such places as the Government shall appoint, there shall be maintained central jails for the imprisonment therein of such persons committed to prison by criminal Courts as the Government may deem to be proper subjects for such imprisonment.

5.—[*Repealed by Bengal Act No. V of 1865.*]

Central jail under control of superintendent, with powers of Magistrate. **6.** Every central jail shall be under the control of a superintendent to be appointed by the Government, and such officer shall be invested with the powers of a Magistrate to be exercised for the purposes of this Act.

Government to make rules and appoint visiting and medical officers. **7.** The Government shall from time to time make such rules as may appear necessary for the supervision, employment, custody, dieting and treatment of prisoners, and for the management of jails; and shall from time to time appoint such visiting and medical officers for jails as may be considered necessary for securing the observance of such rules and for the due care of the prisoners.[a]

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[a] See supplement to *Calcutta Gazette*, 21st June, 1876, pp. 695, 696.

The Commissioner of the division and the Judge of the district shall respectively be *ex officio* visiting officers within the division or district.

Lieutenant-Governor to appoint person to inspect and superintend.

8. The Lieutenant-Governor of Bengal shall appoint such person or persons as he shall think fit to inspect and superintend, subject to the orders of the Government, the jails in every district in the said Provinces, and shall vest in such person or persons such authority for the purpose as may seem proper.

Jailor to be appointed for every jail.

9. Under such rule as the Government shall prescribe in this behalf there shall, for every jail, be appointed a jailor.

Discharge of prisoners.

10. No prisoner shall be discharged except in presence of the officer in whom the control of the jail shall be vested, or of a Magistrate.

Release of prisoners.

11. Under such rule as the Government shall prescribe in this behalf, it shall be lawful for the officer in whom the control of a jail shall be vested, to order the immediate release of any prisoner suffering from disease likely to cause death.

Temporary shelter of prisoners when jail overcrowded, or disease spreading.

12. Whenever it shall appear to the Government that the number of prisoners in any jail is greater than can conveniently or safely be kept within such jail, or whenever any epidemic disease may make its appearance within such jail, it shall be lawful for the officer in whom the control of such jail shall be vested to provide, in such manner as the Government may order, for the temporary shelter and safe custody of such prisoners as may be in excess of the greatest number that can be conveniently or safely kept in the jail, or of prisoners who would be at the risk of suffering from such disease.

Prisoners for whom such temporary shelter may be provided shall be subject to the same rules as if they were within the jail.

Charge of property of prisoner during imprisonment.

13. All property or money in respect whereof no order of a competent Court shall have been made, which shall be delivered with or found upon the person of a prisoner sentenced by a criminal Court when received into a jail shall, during such prisoner's term of imprisonment, be taken charge of by the officer in whom the control of the jail shall be vested, under such rule for the safe custody thereof as the Government shall prescribe.

Proviso.

Provided that such officer may, at his discretion, make over such property or money belonging to the prisoner to whomsoever such prisoner may indicate.

Classification of prisoners.

14. Prisoners shall be classified and kept apart and in separate confinement in such manner as the Government shall by rule prescribe.

Provided that male prisoners of all classes shall be kept apart from female prisoners; prisoners committed to the civil jail from prisoners committed to the criminal jail; and prisoners convicted of offences from prisoners not convicted.

15.—[*Repealed by Bengal Act No. V of 1865.*]

Persons employed in jails subject

16. All persons employed within any jail or in keeping prisoners in custody shall be subject to such rules as may be made by the Government for

to rules made by Government.

their good order and discipline and for regulating communication with prisoners, and it shall be lawful for the Government to affix fines as penalties for the breach of any such rules, provided that no such penalty shall exceed fifty rupees.

Copies of such rules shall be exhibited in some place to which all persons employed within the jail or in keeping prisoners in custody have access, and the officer in whom the control of the jail shall be vested shall have authority to punish persons offending against such rules.

Punishment for taking or attempting to take prohibited articles into jail.

17. Whoever, without due permission, takes or attempts to take, or introduces or attempts to introduce, or throws or attempts to throw, into any part of a jail, any article prohibited by the rules to be made under this Act, or communicates or attempts to communicate with any prisoner in any mode contrary to such rules, shall be liable to be apprehended and brought before a Magistrate, and on conviction shall be liable to a fine not exceeding fifty rupees, or to imprisonment, simple or rigorous, for any term not exceeding two months.

Punishments for breaches of jail-discipline to be recorded in book.

18. The officer in whom the control of a jail shall be vested shall keep a book, in which he shall record all cases of punishments inflicted by him under this Act, stating the charge, the manner in which it was supported by evidence, and the order made.

No further punishment for same offence.

And no person who has been punished by such officer under the provisions of this Act shall be punished in any other way or by any other authority for the same offence.

Offender may be committed to the sessions.

Provided that nothing in this Act shall be held to prevent the officer in whom the control of a jail shall be vested from committing any prisoner or person employed within any jail or in keeping prisoners in custody, for trial before a Magistrate or Sessions Court whenever such prisoner or person shall have been guilty of an offence for which the punishment authorized to be inflicted under this Act may appear inadequate.

ACT No. IV of 1864.

Received the Lieutenant-Governor's assent on the 2nd of April 1864, and the Governor General's assent on the 11th idem.

An Act to amend Act XXI of 1836.

Preamble.

WHEREAS it is expedient to amend Act XXI of 1836[a]; It is enacted as follows:—

Lieutenant-Governor may alter limits of existing zilas.

It shall be lawful for the Lieutenant-Governor of Bengal from time to time to alter the limits of existing zilas in any part of the Provinces subject to the control of the said Lieutenant-Governor.

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[a] See above, p. 277.

ACT No. V OF 1864.

Received the Lieutenant-Governor's assent on the 12th of April 1864, and the Governor General's assent on the 14th of May 1864.

An Act to amend and consolidate the law relating to the collection of tolls on canals and other lines of navigation, and for the construction and improvement of lines of navigation, within the Provinces under the control of the Lieutenant-Governor of Bengal.

Preamble.

WHEREAS it is expedient to amend and consolidate the law relating to the collection of tolls on the canals and lines of navigation specified in the Regulations and Acts in the schedule to this Act annexed, and to authorize the collection of tolls on such other lines of navigation as may hereafter be rendered subject to the provisions of this Act, and to provide for the construction and improvement of lines of navigation; It is enacted as follows:—

Interpretation.

1. The following words shall have the several meanings hereby assigned to them, unless where a contrary intention shall appear from the context, that is to say—

"Vessel."

the word "vessel" shall include any ship, barge, boat, raft, timber, bamboos or floating materials, propelled in any manner:

"Line of navigation."

the words "line of navigation" shall mean any navigable channel subject to the provisions of this Act:

"Channel."

the word "channel" shall include any river, canal, khál, nálá or waterway, whether natural or artificial:

"Person."

the word "person" shall include any company, association or body of persons whether incorporated or not.

Number.

Words importing the singular number shall include the plural, and words importing the plural number shall include the singular:

Gender.

Words importing the masculine gender shall include the feminine.

What navigable channels may be rendered subject to provisions of Act.

2. It shall be lawful for the Lieutenant-Governor of Bengal, from time to time, by notification to that effect published in the *Calcutta Gazette*, to declare that the provisions of this Act shall apply to any navigable channel specified in such notification, and from and after such publication the provisions of this Act shall apply to, and be in force as regards, such navigable channel, and such of the Regulations and Acts specified in the schedule to this Act as were applicable to such navigable channel, shall thenceforth cease to have any force or effect as respects such channel.[a]

[a] See *Calcutta Gazette*, 8th April, 1868, pp. 512—514.

By whom navigable channels may be made.

3. It shall be lawful for the Lieutenant-Governor of Bengal, from time to time, to authorize any person to make and open any navigable channel, or to clear and deepen any navigable channel, and to stop any watercourse, or make any tracking path, or do any other act necessary for the making or improvement of any such channel; and any navigable channel made under this section shall be rendered subject to the provisions of this Act in the manner prescribed in the last preceding section.

Mode of obtaining land for the purpose.

The Government of Bengal may take possession, as for a public purpose, of any land that may be necessary for the execution of any of the above-mentioned works, under the provisions of Act VI of 1857 (*for the acquisition of land for public purposes*) or of any other Act[a] that may now or hereafter be in force for the taking possession of land for public purposes.

Bar of suit against Government.

4. No action or suit shall be brought against the Secretary of State for India in Council, or the Government, in respect of any injury or damage caused by, or resulting from, any act done under the last preceding section.

Tolls to be paid on lines of navigation subject to Act.

5. Tolls at such rates as shall be fixed in manner hereinafter mentioned shall be paid in respect of all vessels entering upon, or passing along, any of the lines of navigation subject to the provisions of this Act.

Proviso.

Provided that such tolls shall be payable only so long as such line of navigation shall be open.

Lieutenant-Governor may fix and alter rates of tolls.

6. The Lieutenant-Governor of Bengal may fix, and from time to time alter, the rates at which such tolls shall be levied.

Provided that no toll shall be levied, and no alteration of any rate of toll shall have effect, until notice shall have been published in the *Calcutta Gazette*, for such period as the said Lieutenant-Governor may fix, of the intention to levy or alter such toll, and of the rate and place at which such toll is to be levied.[b]

Publication of rates of toll at every toll-house.

7. Notification of the rates of toll and of the places of collection, shall be at all times exhibited to public view at every toll-house where toll is levied under this Act, in the English, Urdú and Bengálí languages.

Lieutenant-Governor to appoint persons to collect tolls, who may farm collection.

8. The Lieutenant-Governor of Bengal shall appoint such persons as he may think fit to collect tolls under this Act, and it shall be lawful for any person so appointed to farm out the collection of tolls to any other person, with the sanction of the Government of Bengal, or to employ any other person in such collection.

The person to whom the collection of tolls may be farmed out, or who may be employed in the collection of them, shall have power to collect, and be

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[a] Act No. X of 1870.

[b] *Calcutta Gazette*, 5th March, 1873, p. 350.

authorized to receive them, in the like manner as any person appointed as aforesaid.

Payment of tolls how enforced.

9. If any toll due under the provisions of this Act in respect of any vessel shall not be paid on demand to the person authorized to collect the same, it shall be lawful for such person to seize such vessel, and any furniture thereof, and to detain the same; and such person shall, within twenty-four hours of such seizure and detention, report the same to the nearest Collector or Deputy Collector of the district in which the seizure has been made, or other public officer duly authorized by Government in that behalf; and on receipt of this report the Collector, Deputy Collector or other officer as aforesaid shall publish a notice appointing a day for the sale of the said vessel and any furniture thereof.

The sale shall be held at some period not less than fifteen days from the date of the publication of notice of sale; and if the toll and also any expenses occasioned by non-payment be not paid, or sufficient cause for non-payment be not shewn, at or before the time of sale to the Collector, Deputy Collector or other officer as aforesaid, such officer shall sell the vessel and furniture seized, or so much thereof as may be necessary to pay the toll and also any expenses occasioned by non-payment.

So much of the property seized as may not have been sold, and so much of the sale-proceeds as may be in excess of the sum necessary for satisfying the toll and for defraying the expenses occasioned by non-payment, shall be returned to the person in charge of the vessel.

Penalty for evasion of toll.

10. Any person who shall refuse or evade, or attempt to evade, any toll due under this Act, shall be punished, on conviction before a Magistrate, with a fine which may extend to fifty rupees, or with simple imprisonment in lieu of fine which may extend to one month.

Rules relating to lines of navigation.

11. It shall be lawful for the Lieutenant-Governor of Bengal from time to time to make rules not repugnant to any law in force, and to repeal, alter and amend the same, for the management of any line of navigation subject to this Act, and for regulating the conduct of persons employed for any of the purposes of this Act; and the Lieutenant-Governor may affix fines as penalties for the infringement of such rules not exceeding fifty rupees for any one infringement, or five rupees a day for any continuing infringement.

Such rules may contain directions for any of the following amongst other matters:—

For determining the tonnage of vessels and their measurement; for fixing the number and the width of vessels to be allowed to pass into, or out of, or through, any line of navigation at one time or abreast; for determining the length of time during which vessels may remain stationary on any line of navi-

gation and the amount of demurrage to be paid by vessels remaining stationary beyond such time; for regulating the mode in which and the places at which tolls are to be levied under this Act; for the removal of sunken vessels and obstructions; and for the storing and disposal of the cargo of vessels seized under this Act.[a]

Publication of such rules.

12. Rules shall not be passed until the same shall have been published in the *Calcutta Gazette* for a period of six weeks, and after that time the rules shall be published as passed, with such alterations (if any) as to the Lieutenant-Governor of Bengal shall seem fit.

The rules so published as passed shall not have effect until the expiration of two weeks after such last publication; and all rules so published shall, until the same be repealed or altered, be of like effect as if they were inserted in this Act.

Copies of all rules in the English, Urdú and Bengálí languages shall be exhibited to public view at every place where toll is collected.

Appointment of supervisor with power to remove obstructions.

13. It shall be lawful for the Government of Bengal to appoint any person to be the supervisor of any line of navigation subject to the provisions of this Act, and such person shall be empowered to cut down and remove any tree which may have fallen or may be likely to fall into such line of navigation, and to remove any sunken vessel, and to prevent or remove any other nuisance or obstruction to navigation, of whatever description, whenever he may think it necessary.

Mode of exercising such power.

14. Whenever such supervisor shall consider that the cutting down and removal of any tree or the removal of any other obstruction is necessary, he may in cases of emergency at once remove the same, and may for that purpose enter on any private property.

In cases not of an emergent nature, he shall serve a notice in writing on the owner or occupier of such private property, directing him to remove the same within a reasonable time.

If the owner or occupier cannot be found, notice may be served by notification to be affixed in some conspicuous place in the nearest village.

If the owner or occupier shall not remove the obstruction within the time given in the notice, the supervisor may proceed to remove it himself and may for that purpose enter on any private property.

Payment of all expenses of such removal may be enforced by the sale of the thing removed in the manner provided for the recovery of tolls in section 9 of this Act.

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[a] See *Calcutta Gazette*, 21st June, 1865, p. 1114: *ibid.*, 19th December, 1866, p. 2158: *ibid.*, 30th April, 1873, p. 550: *ibid.*, 18th June, 1873, Part I, p. 760: *ibid.*, 23rd February, 1876, p. 192: *ibid.*, 17th May, 1876, Part I, p. 510.

Supervisor may forbid construction of bandels, &c.

15. Whenever in the opinion of such supervisor the construction of any bandel or other contrivance for fishing, or for any other purpose, in any line of navigation is likely to cause obstruction to the free and safe transit of such line of navigation, he may, by a notice in writing to be served on the owner or person in charge of such bandel or other contrivance, or (if such owner or other person cannot be found) to be affixed at some conspicuous place in the nearest village, forbid the construction of such bandel or other contrivance.

Penalty for causing obstruction to line of navigation.

16. Any person who shall wilfully [a] cause or shall aid in causing any obstruction to any line of navigation, or any damage to the banks or works of such line of navigation, or who shall wilfully omit to remove such obstruction after being lawfully required so to do, shall be punished on conviction before a Magistrate with simple imprisonment which may extend to one month, or with fine which may extend to fifty rupees, or with both, and shall also be liable to pay such fine as may be sufficient to meet all reasonable expenses incurred in abating or removing such obstruction, or in repairing such damage.

Recovery of fines.

17. All fines imposed by this Act may be recovered in the manner prescribed by the Code of Criminal Procedure.

Offences by whom punishable.

18. If any person shall be guilty of an offence against the provisions of this Act on any line of navigation subject to this Act, such offence shall be punishable by any Magistrate having jurisdiction over any district or place adjoining such line of navigation, or adjoining either side of that part of the line of navigation in which such offence shall be committed: and such Magistrate may exercise all the powers of a Magistrate under this Act, in the same manner, and to the same extent, as if such offence had been committed locally within the limits of his jurisdiction, notwithstanding the offence may not have been committed locally within such limits; and in case any such Magistrate shall exercise the jurisdiction hereby vested in him, the offence shall be deemed, for all purposes, to have been committed locally within the limits of his jurisdiction.

19.—[*Repealed by Act No. XII of 1873.*]

Short title.

20. This Act may be cited as "The Canals Act, 1864."

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[a] 2 Ben. App. Jur. Cr. 23.

SCHEDULE OF REGULATIONS AND ACTS.

(Referred to in section 2).

Regulation XVIII of 1806 ...	For collecting a toll on boats passing through the Eastern Canal which connects the River Hugli with the Sundarbans, and through the Canals commonly called the Bánká Nálá, the Kunjapur Khál, the Gowá Khál and the Náráyanpur Khál.
Regulation VIII of 1824 ...	For rescinding Regulation IV of 1813, for determining the rates of toll to be levied on boats, rafts, timbers and the like passing through the Bhágirathí, Jalangí, Ichchhámatí, Máthábhángá and Churní Rivers, and for providing for the better collection of the toll, and for the secure navigation of the aforesaid and other navigable rivers.
Act XXII of 1836	Relating to the levy of a toll on boats, floats and rafts passing through the Circular and Eastern Canals.
Act X of 1853	To amend Act XXII of 1836.
Act XV of 1860	To amend and extend Act XXII of 1836.

ACT No. VI OF 1864.

Received the Lieutenant-Governor's assent on the 12th of April 1864, and the Governor General's assent on the 18th of May 1864.

An Act to provide for the periodical inspection of steam-boilers and prime-movers attached thereto in the town and suburbs of Calcutta.

Preamble. WHEREAS it is expedient to provide for the inspection by competent inspectors of steam-boilers and prime-movers attached thereto in the town and suburbs of Calcutta, with a view to the security of persons and property; It is enacted as follows:—

Interpretation. 1. The following words and expressions in this Act shall have the meanings hereby assigned to them, unless where a contrary intention shall appear from the context, that is to say—

"Boiler." the word "boiler" shall include any cylinder or vessel for generating steam under pressure:

"Prime-mover." the words "prime-mover" shall include any steam-engine, fly-wheel, first driving shaft and pulley attached to any such engine:

"Owner." the word "owner" shall include any agent or hirer using any boiler or prime-mover:

the term "suburbs of Calcutta" shall include the suburbs of Calcutta and the station of Howrah, as defined in Act XXI of 1857[a] (*for making better provision for the order and good government of the Suburbs of Calcutta and of the Station of Howrah*). "Suburbs of Calcutta."

Words importing the singular number shall include the plural, and words importing the plural number shall include the singular: Number.

words importing the masculine gender shall include the feminine. Gender.

2. The Lieutenant-Governor of Bengal shall appoint inspectors for the purposes of this Act, who shall inspect all boilers and prime-movers attached thereto, in the town and suburbs of Calcutta in the manner hereinafter provided. Appointment of inspectors.

3. It shall not be lawful for the owner of any such boiler or prime-mover as aforesaid to use the same in the said town and suburbs, unless a certificate shall have been duly granted in respect thereof in the manner hereinafter provided; and it shall not be lawful for such owner to continue to use such boiler or prime-mover after the period for which such certificate shall have been granted. Prohibition of use of boiler or prime-mover without certificate.

4. The owner of any such boiler or prime-mover as aforesaid in respect whereof a certificate shall not be in force in manner hereinafter described, shall, before using the same, give notice to an inspector appointed under this Act of his intention to use or continue to use the same. On notice from owner, inspector to examine boiler or prime-mover.

The inspector to whom such notice shall be given shall appoint a time between sunrise and sunset, and within forty-eight hours after such notice, for the inspection of such boiler or prime-mover, and at such time shall carefully examine such boiler or prime-mover and every part thereof, and the owner or person in charge thereof shall afford to such inspector all reasonable facilities for such examination and all such information as may reasonably be required.

5. An inspector making an inspection under this Act of any such boiler or prime-mover as aforesaid, if he be satisfied that such boiler or prime-mover is in good condition, shall, on payment by the owner or person in charge thereof of such fees as shall be fixed in the rules hereinafter mentioned, give to the owner a certificate signed by him to that effect, in the form in the schedule to this Act annexed; and such certificate shall state the period for which such boiler or prime-mover may be used, and shall cease to be in force on the expiration of such period. If satisfied with condition of boiler or prime-mover, inspector to give certificate to owner on payment of fee. Duration of certificate.

6. The Lieutenant-Governor of Bengal, or any person authorised by him in that behalf, may revoke any certificate granted under this Act, in any case Revocation of certificate.

[a] See *supra*, p. 333.

in which he shall have reason to believe that such certificate has been fraudulently obtained or erroneously granted, or has been granted without sufficient inspection, or in case he shall have reason to believe that the boiler or prime-mover in respect whereof such certificate shall have been granted, since the granting such certificate, has sustained injury or is not in good condition.

On such revocation of a certificate, an inspector, not being the person who granted the revoked certificate, shall again examine the boiler or prime-mover in respect whereof such revoked certificate was granted, in the manner prescribed in section 4 of this Act, and if he shall be satisfied that the same is in good condition shall grant another certificate.

Provided that no additional fee shall be paid unless there shall appear to have been reasonable ground for revoking the certificate.

Rules to be made.

7. The Lieutenant-Governor of Bengal shall from time to time frame rules regulating the fees payable for certificates, and the duties of inspectors appointed under this Act.

Such rules shall not have effect until they shall have been published in the *Calcutta Gazette* for a period of six weeks, and shall not be inconsistent with the provisions of this Act. [a]

Owner bound to produce certificate when called upon by Magistrate or authorized person.

8. The owner of any such boiler or prime-mover as aforesaid who shall have obtained a certificate for the same shall, at all reasonable times during the period for which the same may be in force, be bound to produce such certificate when called upon to do so by any Magistrate having jurisdiction within the town or suburbs of Calcutta or by any person authorized in writing by such Magistrate to demand its production.

Penalty for using boiler or prime-mover without certificate.

9. The owner of any such boiler or prime-mover as aforesaid who shall use the same in the said town or suburbs without a certificate duly obtained and in force in respect thereof under this Act, shall be punished with a fine not exceeding five hundred rupees; and to continue to use the same after such fine shall have been imposed shall be held to be a separate offence, and shall be punished in like manner.

Proviso.

No proceeding shall be taken to enforce this penalty before such day after this Act shall have come into operation as the Lieutenant-Governor of Bengal shall fix by notification in the *Calcutta Gazette*. [b]

Act not to apply to locomotive railway engines, nor to steam-vessels.

10. This Act shall not apply to any locomotive engine used upon any railway in the town or suburbs of Calcutta, or to any steam-vessel in the port of Calcutta.

Recovery of penalties.

11. All penalties imposed by this Act may be recovered, if for offences committed beyond the local limits of the town of Calcutta, in the manner

[a] See *Calcutta Gazette*, 2nd November, 1865, p. 2015; *ibid.*, 29th November, 1865, p. 2057.
[b] *Calcutta Gazette*, 17th August, 1864, p. 1594; *ibid.*, 5th October, 1864, p. 1793.

prescribed by the Code of Criminal Procedure, and if for offences committed within those limits, in the manner prescribed by Act XIII of 1856 [a] (*for regulating the Police of the Towns of Calcutta, Madras and Bombay*) and Act XLVIII of 1860 [b] (*to amend Act XIII of 1856*) or any other Act for regulating the Police of the town of Calcutta in force for the time being.[c]

Disposal of penalties.

All penalties to be levied under this Act shall be disposed of in such manner as the Lieutenant-Governor of Bengal from time to time shall direct.

Charges within what period to be brought.

12. No charge shall be brought against any person for the recovery of any penalty under this Act except within six months after the commission of the offence, nor shall such charge be brought without the authority of an inspector appointed under this Act.

[a, b] Repealed as to Calcutta by Bengal Act No. IV of 1866.

[c] Bengal Act No. IV of 1866.

SCHEDULE—*(referred to in section 5).*

FORM OF INSPECTOR'S CERTIFICATE.

Name of Owner.	Description of Boiler and age.	Description of Prime-mover and age.	Power.	When and where made.	When and where last repaired.	Time for which Boiler or Prime-mover is to be used and certificate to be in force.	REMARKS.

I, the undersigned, certify that I have examined the above-named boiler (*or* prime-mover) and to the best of my judgment the boiler (*or* prime-mover), as shown in the above statement, is in good condition.

A. B.,
Inspector.

Date

THE SALT ACT, 1864.

ARRANGEMENT OF SECTIONS.

PREAMBLE.

SECTIONS.

1. Short title.
2. [*Repealed.*]
3. Interpretation.

PROHIBITION OF, AND PENALTY FOR, THE UNLICENSED MANUFACTURE OF SALT.

4. Unlicensed manufacture of salt prohibited.
5. Penalty for such manufacture.
6. Confiscation of salt and materials.
7. Board of Revenue to grant licenses on certain conditions.
8. Proprietors and others to give notice to Police of unlicensed salt-works on their lands.

RATE OF DUTY TO BE LEVIED ON SALT, AND RULES FOR SECURING PAYMENT.

9. Rate of duty on manufacture of salt.
10. Licensed manufacturer to provide proper warehouse.
11. Lieutenant-Governor to prescribe rules and impose penalties.
Proviso.

MANNER OF REGULATING THE POSSESSION OF SALT WITHIN CERTAIN LIMITS.

12. Regulation of possession and transport of salt.
13. Rawánas by whom and how granted.
14. Rawána not to be granted without payment of duty.
15. Limitation of possession or transport of salt.
Proviso.
16. Penalties for possessing or transporting salt without rawána.
17. Punishment for transporting salt in excess of quantity specified in rawána.
18. Confiscation of salt conveyed otherwise than as allowed.
19. Salt transported beyond limits not to be again brought within them without special rawána.
20. Salt sold or lost within limits, to be certified on back of rawána.
21. Penalty for omitting to certify sale or loss.
22. If whole quantity be sold within limits, or whole or part carried beyond, rawána to be delivered up.

DUTIES OF POLICE.

SECTIONS.

23. Inspection of salt-works by Police-officers.
24. Arrest of persons carrying salt liable to confiscation.
25. Salt seized may be weighed by Police-officer.
26. Persons arrested to be forthwith taken before Magistrate and detained or admitted to bail.
27. Magistrate may issue search-warrant on application.
28. Rules regarding entry of house by force.

MODE OF CONFISCATING SALT.

29. Magistrate may summon persons and adjudge confiscations.
30. Rules of Criminal Procedure Code applied.
31. Seizures within Calcutta to be determined on by Justice of the Peace.
32. On confiscation, salt to vest in Her Majesty.

GENERAL PROVISIONS FOR CARRYING OUT THE PURPOSES OF THIS ACT.

33. Penalties for vexatious seizures and arrests.
34. Punishment on second and subsequent convictions.
35. Enforcement of penalties.
36. Period of imprisonment in default of payment of fine.
37. Limitation as to charges.
38. Bar of *certiorari* as to Justices' proceedings. Quashing judgments.
39. Board of Revenue may mitigate penalties.
40. Disposal of proceeds of seizures and fines.
41. Limitation of suits, &c.

ACT No. VII OF 1864.

Received the Lieutenant-Governor's assent on the 19th of March 1864, and the Governor General's assent on the 28th of May 1864.

An Act to amend and consolidate the laws relating to the manufacture, possession, transport and sale of salt in the Provinces under the control of the Lieutenant-Governor of Bengal.[a]

Preamble. WHEREAS it is expedient to amend and consolidate the laws relating to the manufacture, possession, transport and sale of salt in the Provinces under the control of the Lieutenant-Governor of Bengal; It is enacted as follows:—

Short title. 1. This Act may be cited as "The Salt Act, 1864."

2.—[*Repealed by Act No. XII of 1873.*]

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[a] Amended by Bengal Act No. I of 1873, *infra*.

3. The following words shall have the several meanings hereby assigned to them unless where a contrary intention shall appear from the context (that is to say)— Interpretation.

the word "salt" shall include every saline substance and preparation used or intended to be used with food: "Salt."

the word "manufacture" shall include the preparation or collection of salt: "Manufacture."

the words "salt-work" shall mean any place used or intended to be used for the manufacture of salt: "Salt-work."

the words "Board of Revenue" shall mean the Board of Revenue for the Lower Provinces of the Presidency of Fort William in Bengal: "Board of Revenue."

the word "Magistrate" shall mean any person exercising the full powers of a Magistrate under the Code of Criminal Procedure: [a] "Magistrate."

the words "Police-officer" shall include all village Police-officers: "Police-officer."

the word "ser" shall mean a weight of eighty tolas: "Ser."

the word "maund" shall mean a weight of forty sers: "Maund."

when salt is in the possession of a person's servant or agent on his account, it is in that person's possession within the meaning of this Act: Salt in possession of servant or agent.

where the doing of any act is made punishable by this Act, or by any of the rules to be made in pursuance thereof, with any penalty, the causing or procuring such act to be done shall be punishable in like manner: Causing or procuring act to be done, punishable in same manner as doing act.

the word "rawána" shall mean a written or printed permission duly issued under the provisions of this Act to possess or transport salt: "Rawána."

words importing the singular number shall include the plural, and words importing the plural number shall include the singular: Number.

words importing the masculine gender shall include the feminine. Gender.

4. Within the Provinces under the control of the Lieutenant-Governor of Bengal, it shall not be lawful for any person, who is not duly licensed in the manner hereinafter provided, to manufacture salt. Unlicensed manufacture of salt prohibited.

5. Whoever without a license duly obtained under this Act, shall manufacture, or attempt to manufacture, salt, shall be punished with fine which may extend to five hundred rupees, or with simple imprisonment for a term which may extend to six months, or with both. Penalty for such manufacture.

The use of each salt-work in such unlicensed manufacture shall be a separate offence within the meaning of this section, and each fire or fire-place, or place for collecting salt in any mode, used or intended to be used in such manufacture, shall be deemed a separate salt-work.

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[a] See Bengal Act No. I of 1873, ss. 1, 2.

The continuing, after conviction and sentence, of the offence mentioned in the introductory part of this section, shall be considered as amounting to the commission of such offence, and shall be punishable in the same way as such offence.

Confiscation of salt and materials.

6. All materials and implements used or intended to be used in manufacturing salt without a license, and all salt so manufactured, shall be confiscated.

Board of Revenue to grant licenses on certain conditions.

7. The Board of Revenue shall grant licenses to manufacture salt in such places in the said Provinces and to such persons as they shall think fit.

Provided that no person shall obtain a license to manufacture salt unless he shall have complied with such terms and conditions for securing the payment of the duty hereinafter mentioned as may be required by the said Board.

Proprietors and others to give notice to Police of unlicensed salt-works on their lands.

8. Every proprietor, tenant, under-tenant and cultivator who owns or holds land on which there shall be any salt-work not licensed under the provisions of this Act, and every náib, gumáshta, tahsíldár or other agent employed by the Government or the Court of Wards or by any private proprietor on such land, shall, within ten days after the existence of any such salt-work shall have come to his knowledge, give written notice of the same to a Police-officer.

If any person bound to give notice under this section shall wilfully omit or delay to give the same, he shall for every such offence be liable to a fine not exceeding five hundred rupees for each salt-work.

Rate of duty on manufacture of salt.

9. A duty shall be paid on all salt manufactured by persons licensed under this Act, at the rate of the customs-duty levied upon salt imported by sea.

Licensed manufacturer to provide proper warehouse.

10. Every licensed manufacturer of salt shall, before he begins to manufacture, provide a proper and secure warehouse, to be approved by the Board of Revenue, for the purpose of depositing and securing therein the salt to be manufactured; and all salt manufactured by him shall in the first instance be deposited in such warehouse.

Lieutenant-Governor to prescribe rules and impose penalties.

11. The Lieutenant-Governor of Bengal shall from time to time prescribe rules, which shall be notified in the *Calcutta Gazette*,[a] for regulating the manufacture, deposit and transport of salt, and for securing the payment of the duty thereon, and shall from time to time fix penalties for infringements of such rules.

Proviso.

Provided that no rule shall be repugnant to any of the provisions of this Act, or to any law in force, and that no penalty shall exceed five hundred rupees.

Regulation of possession and transport of salt.

12. Within such limits as the Lieutenant-Governor of Bengal shall define by notification in the *Calcutta Gazette*, the possession and transport of all salt shall be regulated in manner hereinafter provided.

[a] See Notifications, 22nd February, 1869, *Calcutta Gazette*, 24th February, 1869, pp. 276—280: 7th November, 1874, *ibid.*, 11th November, 1874, Part I, p. 1658: *ibid.*, 8th August, 1877, Part I, pp. 968—969: *ibid.*, 2nd September, 1874, Part I, p. 1330: *ibid.*, 16th September, 1874, Part I, p. 1409.

Rawánas by whom and how granted.

13. The Board of Revenue shall grant rawánas for all salt possessed or transported within the limits so fixed, in accordance with such rules as the Government shall from time to time make in this behalf, and on payment of such fee as may be fixed in such rules.[a]

Rawána not to be granted without payment of duty.

14. No rawána shall be granted unless the full amount of duty on the quantity of salt, to be specified in such rawána, shall have been paid.

Limitation of possession or transport of salt.

15. It shall not be lawful to possess or transport more salt than five sers, unless the same shall be specified in a rawána granted under section 13 of this Act.

Proviso.

Provided that this section shall not apply to salt imported by sea and warehoused under the Sea Customs Act, 1878,[b] or to salt deposited by a manufacturer in an approved warehouse under section 10 of this Act.

Penalties for possessing or transporting salt without rawána.

16. Any salt exceeding five sers in quantity, which may be found within such limits as aforesaid, not specified in a rawána, shall be held to be contraband, and as such shall be seized and confiscated.[c]

The vessels, packages and covering in which such salt shall be found, and any animals or conveyances used in carrying it, shall also be seized and confiscated.

Any person possessing or transporting, or attempting to transport, such salt, shall be liable to a fine not exceeding five rupees for every maund of salt so seized and confiscated.

All persons found in gangs or companies transporting, or attempting to transport, such salt, when the whole quantity exceeds ten sers, shall be liable to the like penalty, and each one of the offenders shall be liable to the whole fine.

In the cases aforesaid the fine shall be at the rate of five rupees per maund, according to the quantity of salt seized, whether more or less than one maund.

Punishment for transporting salt in excess of quantity specified in rawána.

17. If any person shall possess, transport or attempt to transport, within the said limits, under a rawána, a greater quantity of salt than is specified in such rawána, the excess, as well as the quantity so specified, shall, if such excess be found on weighment to exceed two and a half per cent. on the quantity so specified, be held to be contraband, and as such shall be seized and confiscated.

Any person possessing or transporting, or attempting to transport, such salt, shall be liable to a fine of five rupees for every maund of salt in excess of the quantity so specified.

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[a] See Notification of 22nd February, 1869, *Calcutta Gazette*, 24th February, 1869, pp. 276—280, and the other notifications mentioned in note to section 11.

[b] See Act No. VIII of 1878, section 2.

[c] 6 Beng. 381.

Confiscation of salt conveyed otherwise than as allowed.

18. Salt being conveyed by a route or to a place other than that specified in such rawána, shall be seized and confiscated.

Any person possessing or transporting, or attempting to transport, such salt, shall be liable to the penalty prescribed in section 16 of this Act.

Salt transported beyond limits, not to be again brought within them without special rawána.

19. Salt which may have been transported beyond the said limits, shall not again be brought within those limits except under a special rawána granted for the purpose under the authority of the Board of Revenue.

Any salt brought within such limits without such special rawána, shall be seized and confiscated, and the persons in whose possession it may be found shall be liable to the penalty prescribed in section 16 of this Act for the possession of contraband salt.

It shall be competent to the said Board to withhold or grant such rawána.

Salt sold or lost within limits, to be certified on back of rawána.

20. All persons possessed of salt specified in a rawána, who may sell, lose or otherwise dispose of any portion of such salt within the said limits, shall certify on the back of such rawána the quantity sold, lost or disposed of by them.

Penalty for omitting to certify sale or loss.

21. Whoever within the said limits sells, loses or disposes of salt, and wilfully or negligently omits to certify such sale, loss or disposal thereof in the manner above described, shall be liable to a fine not exceeding five rupees for every maund so sold, lost or disposed of by him, and any salt in his possession, not exceeding twice the quantity sold, lost or disposed of, may be seized by an officer in charge of the Police-station as security for the payment of such fine.

If whole quantity be sold within limits, or whole or part carried beyond, rawána to be delivered up.

22. If all the salt specified in a rawána be disposed of within the said limits, such rawána shall be delivered up to the officer in charge of the Police-station within which the last parcel of the salt shall have been disposed of.

If any part of the salt specified in such rawána be carried beyond the said limits, such rawána shall in that case be delivered up to the officer in charge of the last Police-station which such salt may have to pass before being carried beyond the said limits.

Inspection of salt-works by Police-officers.

23. Any Police-officer may enter and inspect, at any time by day or night, any salt-work, or any warehouse or premises in which salt is stored.

Arrest of persons carrying salt liable to confiscation.

24. Any Police-officer may arrest any person carrying or in possession of contraband salt, and may seize the vessels, packages and covering, and any animals or conveyances used in carrying such salt.

Salt seized may be weighed by Police-officer.

25. For the purposes of the preceding section and of sections 16 and 17 of the Act, it shall be lawful for the officer in charge of the Police-station within which the salt shall be found to cause the same to be weighed.

Persons arrested to be forthwith taken before Magistrate and detained or admitted to bail.

26. Any person arrested on the ground that he has been guilty of an offence under this Act, shall forthwith be taken before a Magistrate or Justice of the Peace, who may, if he see reasonable cause, order such person to be detained in custody until the case shall have been disposed of in the manner hereinafter provided.

Provided that any person so detained shall be liberated on giving recognizance or security to appear at such time and place as shall be appointed for his appearance.

Magistrate may issue search-warrant on application.

27. It shall be lawful for the Magistrate of a district, or division of a district, on application by a Police-officer, stating his belief that salt is manufactured in any place within such district or division contrary to the provisions of this Act, or that salt not specified in a rawána is kept or concealed in any house, boat or place in such district or division, to issue a warrant to search for such salt.

Such warrant shall be executed in the same way and shall have the same effect as a search-warrant issued under the Code of Criminal Procedure.

It shall be lawful for any Magistrate of the town of Calcutta, on the like application in reference to salt believed to be manufactured in Calcutta contrary to the provisions of this Act, or kept or concealed contrary to the provisions of this Act in any house, boat or place in Calcutta, to issue a warrant, which shall be executed in the same way and shall have the same effect as a search-warrant under the Calcutta Police Act, 1866.[a]

Rules regarding entry of house by force.

28. Whenever any officer in charge of a Police-station shall have reasonable cause to believe from information (which shall be taken down in writing) that salt is being manufactured in any place contrary to the provisions of this Act, or that salt not specified in a rawána is kept or concealed in any house, boat or place, such officer may, between sunrise and sunset, but always in the presence of another Police-officer, enter into any such house, boat or place, and in case of resistance may break open any door and remove any obstacle to such entry; and may seize and carry away all such salt so found, and all materials and implements used, or intended to be used, in the manufacture, and may arrest all persons concerned in the manufacture, or in the keeping and concealing of such salt.

Provided that whenever it shall be necessary to enter any house in such manner, the rules for entering a house in execution of a search-warrant, prescribed in chapter XXVII and sections 415 to 420 (both inclusive)[b] of the Code of Criminal Procedure, and in the said Calcutta Police Act, 1866,[c] shall be observed by the officer effecting such entry.

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[a], [c] Bengal Act No. IV of 1866, section 2. [b] See Act No. X of 1872, schedule V.

Magistrate may summon persons and adjudge confiscations.

29. When any salt or other property shall be seized as contraband, any Magistrate within the district or division of a district wherein the same may be seized, may, upon the information of any Police-officer, summon the person in possession of such salt or other property, or to whom the same may belong, to appear before him, and upon such appearance, or in default thereof, may examine into the cause of the seizure thereof, and may adjudge the same to be confiscated.

Rules of Criminal Procedure Code applied.

30. The rules contained in the Code of Criminal Procedure for the trial of cases before a Magistrate, and for appeal against orders passed by a Magistrate, shall be applicable to adjudications under the last preceding section.

Seizures within Calcutta to be determined on by Justice of the Peace.

31. When any salt or other property shall be seized under this Act as liable to confiscation within the local limits of the town of Calcutta, such seizure shall, upon information exhibited by any Police-officer, be heard and determined in a summary way by a Justice of the Peace for the town of Calcutta, and such Justice shall cause the person in possession of such salt or other property, or to whom the same may belong, to be summoned to appear before him, and upon such appearance, or in default thereof, shall inquire into the cause of such seizure, and may adjudge the same to be confiscated.

On confiscation, salt to vest in Her Majesty.

32. When the confiscation of any salt or other property shall be adjudged under the three last preceding sections, the same shall thereupon belong to, and vest in, Her Majesty, and a warrant shall be issued by the Court to a Police-officer, directing him to hold the salt or other property confiscated at the disposal of the Board of Revenue.

Penalty for vexatious seizures and arrests.

33. Any Police-officer who shall vexatiously and unnecessarily seize the goods or chattels of any person on the pretence of seizing or searching for contraband salt, or who shall vexatiously and unnecessarily arrest any person, or commit any other excess beyond what is required for the execution of his duty, shall be liable to a fine not exceeding five hundred rupees, or to simple imprisonment for a term not exceeding six months.

Punishment on second and subsequent convictions.

34. Whenever any person shall be convicted of an offence against this Act, after having been previously convicted of a like offence, he shall be liable in addition to the penalty attached to such offence, to simple imprisonment for a period not exceeding six months, and a like punishment of imprisonment not exceeding six months shall be inflicted, in addition to the punishment which may be inflicted for a first offence, upon every subsequent conviction after the second.

Enforcement of penalties.

35. All penalties imposed by this Act may be enforced if for offences not committed within the local limits of the town of Calcutta, in the manner prescribed by the Code of Criminal Procedure, and if for offences committed within those limits, in the manner prescribed by the said Calcutta Police Act,

1866,[a] or any other Act for regulating the Police of the town of Calcutta in force for the time being.

Period of imprisonment in default of payment of fine.

36. In every case in which an offender shall be sentenced to a fine, the Court which sentences such offender shall direct by the sentence that, in default of payment of the fine, such offender shall be imprisoned for a certain term, which imprisonment shall be in excess of any other imprisonment to which he may have been sentenced.

The term of imprisonment shall be fixed according to the following scale,—that is to say, when the fine shall not exceed fifty rupees, such term shall not exceed two months; when the fine shall not exceed one hundred rupees, such term shall not exceed four months; and in any other case shall not exceed six months.

The fine, or any part thereof which shall remain unpaid, may be levied at any time within six years after the passing of the sentence, and the death of the offender shall not discharge from liability any property which would after his death be legally liable for his debts.

Limitation as to charge.

37. No charge of an offence under this Act shall be instituted except within six months after the commission of such offence.

Bar of certiorari as to Justices' proceedings. Quashing judgments.

38. No writ of certiorari shall be issued at the suit of any party out of the High Court of Judicature, to supersede, stay, remove or in anywise affect any information or judicial proceeding before any Justice of the Peace in pursuance of this Act, and no judgment thereupon shall be quashed, except for error of law apparent on the face of the judgment.

Board of Revenue may mitigate penalties.

39. When any confiscation or penalty shall be adjudged under this Act, the Board of Revenue, within three months after final judgment, may call for the proceedings of the case, and if they shall see cause may direct that the seizure or any part thereof be restored, and may remit the penalty or part thereof and direct that the offender be discharged.

Disposal of proceeds of seizure and fines.

40. All fines paid or levied under section 35 of this Act shall be at the disposal of the Board of Revenue, and the said Board may appropriate the same or any portion thereof, and the proceeds of any seizure or any portion of such proceeds, to form a fund for rewarding the Police of such grades as may be determined by the said Board, and for rewarding informers, and for compensating persons subjected to annoyance or injury by any proceedings under this Act.

Limitation of suits, &c.

41. No suit, action or other proceedings shall be commenced against any person for anything done in pursuance of this Act, without giving to such person a month's previous notice in writing of the intended suit, action or

[a] See Bengal Act No. IV of 1866.

other proceeding, and of the cause thereof: nor after the expiration of three months from the accrual of the cause of suit, action or other proceeding.

ACT No. III of 1865.

Received the Lieutenant-Governor's assent on the 28th of January 1865, and the Governor General's assent on the 1st of February 1865.

An Act to make better provision for the prevention of injury from fire in ports, and to provide for the safe keeping of inflammable oils in ports and places, within the Provinces under the control of the Lieutenant-Governor of Bengal.

Preamble. WHEREAS it is expedient that better provision should be made for the prevention of injury from fire in ports in the Provinces under the control of the Lieutenant-Governor of Bengal; and it is also expedient to make provision for the safe storing and keeping of inflammable oils within the said Provinces; It is enacted as follows:—

Interpretation. 1. The following words for the purposes of this Act have the meanings hereby assigned to them, unless where a contrary intention appears from the context, that is to say—

"The conservator." the words "the conservator" denote the Master Attendant or other officer executing the office of conservator under the Indian Ports Act, 1875[a] in any port to which this Act applies:

"Master." the word "master" denotes any person, except a pilot or harbour-master, having temporary or permanent command or charge of any vessel:

"Owner." the word "owner" includes any consignee of goods and agent to whom a vessel is consigned:

"Inflammable oil." the words "inflammable oil" include petroleum, benzole, kerosine and any oil or product of oil that gives off an inflammable vapour at a temperature of less than one hundred degrees of Fahrenheit's thermometer:

"Port." the word "port" denotes any port, navigable river or channel within the Provinces aforesaid subject to the provisions of the Indian Ports Act, 1875:[b]

"Magistrate." the word "Magistrate" includes any officer exercising any of the powers of a Magistrate under the Code of Criminal Procedure, and any Magistrate of Police for the town of Calcutta:

Number. words importing the singular number include the plural, and words importing the plural number include the singular.

[a, b] See Act No. XII of 1875, section 3, clause 3.

Lieutenant-Governor may extend provisions of Act.

2. The Lieutenant-Governor of Bengal may, by notification in the *Calcutta Gazette*, extend the provisions of this Act to any port or place within the Provinces under his control, and the provisions of this Act, so far as relates to ports, when so extended, shall be deemed to be incorporated with the Indian Ports Act, 1875,[a] so far as the said Act relates to the said Provinces *and is not altered by this Act.*

3, 4.—[*Repealed by Act No. XII of 1875.*]

Limit to quantity of oil to be kept without license.

5. From and after the passing of this Act, it shall not be lawful, within the said Provinces, to place or keep more than forty gallons of inflammable oil within fifty yards of any dwelling-house or of any building in which goods are stored, unless such oil shall be placed in a building approved and licensed for the purpose by an officer authorized in that behalf by the Lieutenant-Governor of Bengal.

Seizure of oil illegally kept.

6. Any inflammable oil placed or kept in a manner contrary to the provisions of this Act, may, together with the receptacle containing such oil, be seized by any Police-officer under a search-warrant as hereinafter mentioned.

License to carry oil. Seizure of oil carried without license.

7. The officer authorized in the manner aforesaid to grant licenses, may grant to any person a license for the transit and carrying of inflammable oil from one place to another in greater quantities than twenty gallons.

Whenever more than twenty gallons shall be carried by any person without a license, such oil may, together with the receptacle containing such oil, be seized by any Police-officer without a search-warrant.

Lieutenant-Governor may make rules.

8. It shall be lawful for the Lieutenant-Governor of Bengal from time to time to make rules for regulating the following matters:—

1, 2.—[*Repealed by Act No. XII of 1875.*]

3. The survey and approval by the licensing-officer of buildings required to be licensed under this Act, and the terms and conditions under which licenses for buildings and licenses for removal of oil are to be granted.

Publication of rules.

9. Such rules as aforesaid shall be published in the *Calcutta Gazette*,[b] and copies thereof shall be fixed up in some conspicuous place in the office of every conservator and in every custom-house.

Repeal or alteration.

It shall be lawful for the said Lieutenant-Governor from time to time to repeal, add to or alter, any such rules.

10.—[*Repealed by Act No. XII of 1875.*]

Penalty for keeping oil in unlicensed building.

11. *Clause* 1.—Whoever, after the passing of this Act, shall place or keep inflammable oil in an unlicensed building contrary to the provisions of this

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[a] See Act No. XII of 1875, section 3, clause 3.

[b] See *Calcutta Gazette*, 21st March, 1866, p. 519: *ibid.*, 24th February, 1869, p. 275: *ibid.*, 29th January, 1873, Part I, p. 170.

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Act, shall be liable to a fine not exceeding two hundred rupees a day for each day during which such oil is so placed or kept.

Penalty for carrying, without license, more than 20 gallons.

Clause 2.—Whoever, after the passing of this Act, shall without a license in that behalf, carry a greater quantity than twenty gallons of inflammable oil from one place to another shall, for such offence, be liable to a fine not exceeding fifty rupees.

Penalty for breach of conditions of license.

Clause 3.—Whoever shall be guilty of a breach of the terms or conditions of any license granted under this Act shall, for such offence, be liable to a fine not exceeding two hundred rupees and to forfeiture of his license; and all inflammable oil in the possession of such person may be seized by a Police-officer under a search-warrant as hereinafter mentioned.

Search-warrant.

12. A Magistrate may, on information laid before him on oath or solemn affirmation and reduced into writing, issue his warrant, authorising a Police-officer to search, in the day time, any building or place, vessel, boat or vehicle, in which he has reasonable ground to suspect that any inflammable oil is placed, kept or carried, or any person suspected of carrying the same contrary to the provisions of this Act; and all inflammable oil found on such search shall, together with the vessels or receptacles in which it may be stored or carried, be immediately seized and kept, pending the judgment of such Magistrate.

Such warrant shall be executed and have effect within the town of Calcutta under Act XIII of 1856 [a] (*for regulating the Police of the towns of Calcutta, Madras and Bombay*), and elsewhere under the Code of Criminal Procedure.

Adjudication upon seizure.

13. When any inflammable oil shall be seized under this Act, the Magistrate within whose jurisdiction the same may be seized, may, upon the information of any Police-officer, summon the owner of such inflammable oil, or the person in whose possession, or the master of the ship on board of which, it may be found, to appear before him, and upon such appearance, or in default thereof, may examine into the cause of the seizure thereof, and may adjudge the same to be confiscated.

Rules of Criminal Procedure Code applied.

14. The rules contained in the Code of Criminal Procedure for the trial of cases before a Magistrate and for appeals against orders passed by a Magistrate, shall be applicable to adjudications under the last preceding section, except where the seizure is made within the town of Calcutta.

Disposal of oil confiscated under Act.

15. When the confiscation of any inflammable oil shall be adjudged under this Act, such oil shall thereupon belong to, and vest in, Her Majesty, and a warrant shall be issued by the adjudicating Magistrate to a Police-officer, directing him to hold such oil at the disposal of the Government of Bengal.

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[a] Repealed as to Calcutta by Bengal Act No. IV of 1866.

16. In any port to which the provisions of this Act shall have been extended, if any person shall infringe any of such provisions, or any rule made in pursuance of this Act, such infringement shall be punishable by a Magistrate having jurisdiction over any district or place adjoining such port, and such Magistrate may proceed as if such infringement had been committed locally within the limits of his jurisdiction. Jurisdiction over offences committed beyond local limits of Magistrate's jurisdiction.

17. All fines imposed under this Act may be recovered, if for offences committed beyond the town of Calcutta, in the manner prescribed by the Code of Criminal Procedure, and if for offences committed within the town of Calcutta, in the manner prescribed by Act XIII of 1856 [a] (*for regulating the Police of the Towns of Calcutta, Madras and Bombay*), and Act XLVIII of 1860 [b] (*to amend Act XIII of 1856*), or any other Act for regulating the Police of the town of Calcutta in force for the time being. Recovery of fines.

18. The provisions of this Act shall not extend to any building used by, or to any inflammable oils belonging to, Government. Exemption.

ACT No. IV of 1865.

Received the Lieutenant-Governor's assent on the 27th of March 1865, and the Governor General's assent on the 5th of April 1865.

An Act for the prohibition of the practice of inoculation in the town and suburbs of Calcutta and in towns to which Act III of 1864, passed by the Lieutenant-Governor of Bengal in Council, has been or shall hereafter be extended.

WHEREAS it is found that small pox is spread by inoculators who infect persons living in towns without adopting any precaution against contagion; and whereas proper and sufficient arrangements have been made in the town of Calcutta and in its suburbs, and in certain other towns in the Province of Bengal, for the vaccination or inoculation with the cow-pox of the inhabitants thereof respectively; and it is desirable to prohibit by law the practice of inoculation with the small pox in such towns and places; It is enacted as follows:— Preamble.

1. Any person who shall hereafter produce, or attempt to produce, in any person, by inoculation with variolous matter, or by wilful exposure to variolous matter, or to any matter, article or thing impregnated with variolous matter, or who shall wilfully, by any other means whatsoever, produce the disease of small pox in any person, shall be liable, on conviction before a Magistrate, Penalty for inoculating or otherwise producing smallpox.

[a], [b] Repealed as to Calcutta by Bengal Act No. IV of 1866, which is the Police Act now in force in Calcutta.

to imprisonment of either description for a period not exceeding three months, or to a fine not exceeding two hundred rupees, or to both.

Penalty for entering place subject to Act, without certificate, before forty days from date of inoculation.

2. If any person, having been inoculated with the small pox in a place to which the provisions of this Act shall not at the time be applicable, shall afterwards enter the town of Calcutta, or any other town or place to which such provisions shall then be applicable, before the lapse of forty days from the date of such inoculation, or without a certificate from a qualified medical officer stating that such person is no longer likely to cause contagion, such person shall be liable, on conviction before a Magistrate, to imprisonment of either description for a period not exceeding three months, or to a fine not exceeding two hundred rupees, or to both.

Act where to take effect.

3. This Act shall take effect in the town of Calcutta and in the station of Howrah and suburbs of Calcutta, as the same are defined in the schedule appended to Act XXI of 1857 [a] (*to make better provision for the order and good government of the suburbs of Calcutta and of the station of Howrah*), from the date of the passing of this Act; and it shall be lawful for the Lieutenant-Governor of Bengal, at any time after such date, by notification published in the *Calcutta Gazette*, to extend this Act to any town or place to which Act III of 1864,[b] passed by the Lieutenant-Governor of Bengal in Council (*the District Municipal Improvement Act*), shall then apply, or in which there shall then be any military cantonment, or in which it shall appear to the Lieutenant-Governor of Bengal that, at the time of such notification, there exist proper and sufficient arrangements for the inoculation of the inhabitants thereof with the cow-pox.

Mode of procedure.

4. The provisions of the Code of Criminal Procedure relative to the meaning thereby assigned to the word "Magistrate," and to cases triable under chapter XVI, and the provisions applicable to summons cases,[c] of the said Code, and to the recovery of fines, shall apply to the case of any offence committed against this Act beyond the town of Calcutta; and the provisions of Act XIII of 1856 [d] (*for regulating the Police of the towns of Calcutta, Madras and Bombay*), and of Act XLVIII of 1860 [e] (*to amend Act XIII of 1856*), or any other Act for regulating the Police of the town of Calcutta for the time being in force, shall apply to the case of any such offence committed within the said town.

Whenever the convicting Magistrate shall sentence the offender to fine, it shall be lawful for such Magistrate to award any portion, not exceeding one-half, of such fine to the person on whose information such offender has been convicted.

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[a] See *supra*, p. 333.
[b] Repealed by Bengal Act No. V of 1876.
[c] See Act No. X of 1872, schedule V.
[d], [e] Repealed as to Calcutta by Bengal Act No. IV of 1866.

ACT No. V of 1865.

Received the Lieutenant-Governor's assent on the 5th of April 1865, and the Governor General's assent on the 10th idem.

An Act to amend Act II of 1864 passed by the Lieutenant-Governor of Bengal in Council (an Act for the regulation of Jails and the enforcement of discipline therein), and to extend the provisions thereof to the Presidency Jail.

Preamble.

WHEREAS it is expedient to amend certain provisions of Act II of 1864 [a] passed by the Lieutenant-Governor of Bengal in Council; and whereas by Act XII of 1865 [b] of the Governor General of India in Council the custody of persons confined in the Great Jail of Calcutta is vested in an officer to be appointed by the Government of Bengal; It is enacted as follows:—

1.—[*Repealed by Act No. XII of 1873.*]

Sections to be read with Act II of 1864.

2. The following sections shall be read with, and taken as part of, the said Act II of 1864.[c]

Control of civil and criminal jails.

3. The civil and criminal jail in every district shall, unless the Government shall invest some other officer with the control thereof, be under the control of the Magistrate of the district, or of any Magistrate to whom the Magistrate of the district may make over the control thereof; and the jails in any division of a district shall be under the control of the Magistrate who shall be in charge of such division, acting under the instructions of the Magistrate of the district.

Punishment for breaches of rules and of jail-discipline.

4. It shall be lawful for the officer in whom the control of a jail shall be vested, to inquire into all breaches of the rules that may be made under this Act, and to punish prisoners guilty of any breach thereof, or of violent or refractory conduct, or of using insolent language, or of refusing or wilfully neglecting to perform the work, or of wilfully mismanaging the work allotted to them, or of wilfully disabling themselves for labour.

Such punishment may consist of separate confinement, of corporal punishment not exceeding thirty stripes of a rattan, or of confinement in irons for a period not exceeding one month in the case of a first offence, and for a period not exceeding six months in the case of a second offence of the same description:

Provided that corporal punishment or confinement in irons shall not be inflicted on any female prisoner or on any person imprisoned in a civil jail, and that confinement in irons may be inflicted on hardened offenders for any period not exceeding one year.

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a, c See *supra*, p. 477.

b Repealed by Act No. XII of 1867.

Power to confine in irons prisoners sentenced to rigorous imprisonment.

5. In any case in which the officer in whom the control of the jail shall be vested, shall consider it necessary for the safe custody of any prisoner who shall have been sentenced to rigorous imprisonment, that such prisoner should be confined in irons, it shall be lawful for such officer so to confine the said prisoner:

Proviso.

Provided that, in every case in which any prisoner shall be confined in irons solely under the provisions of this section, it shall be the duty of the officer in whom the control of the jails shall be vested, to report the circumstances under which such prisoner shall have been so confined, without delay, to the officer who shall have been appointed by the Lieutenant-Governor of Bengal under section 8 of the said Act II of 1864.

Power to confine in irons prisoners convicted of escaping or attempting to escape.

6. If any prisoner, whether he shall have been sentenced to rigorous or only to simple imprisonment, shall be convicted, under section 224 of the Indian Penal Code, of having attempted to escape from such imprisonment, it shall be lawful for the officer in whom the control of the jail shall be vested, in carrying into execution the remainder of such sentence or imprisonment, or any portion of the punishment to which such prisoner may be sentenced for such attempt, to confine the said prisoner in irons for a period not exceeding one year in the case of a first offence, and for the whole term of imprisonment to which the said prisoner shall have been sentenced, in the case of a second or any subsequent offence.

Powers of Lieutenant-Governor in respect of Presidency jail.

7. From and after the passing of this Act, the power of making rules and of appointing visitors, medical-officers, jailors and inspectors, which by sections 7, 8, 9, 11, 12, 15 and 16 of the said Act II of 1864, are vested in the Government of Bengal, may be exercised by such Government with respect to the Presidency jail, and all persons confined and to be confined therein; and the said Government shall have the power of transferring prisoners from any jail within the Provinces under its control to any other jail within the same limits, provided that such transfer shall, on the report of the person or persons appointed under section 8 of Act II of 1864, appear necessary.[a]

Powers of Superintendent of Presidency jail.

8. From and after the passing of this Act, all and singular the powers and authorities which by the said Act II of 1864 and by this Act are conferred on the officer in whom the control of a jail shall be vested, shall and may, as respects persons confined or to be confined in the said Presidency jail, be exercised by the Superintendent of the Presidency jail.

The provisions of section 17 of the said Act II of 1864 are hereby extended to the said Presidency jail.

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[a] See Supplement to *Calcutta Gazette*, 21st June, 1876, p. 695.

ACT No. VIII OF 1865.

Received the Lieutenant-Governor's assent on the 10th of May 1865, and the Governor General's assent on the 27th idem.

An Act to amend the law for the sale of such under-tenures as by the title-deeds or established usage of the country are transferable by sale or otherwise for the recovery of arrears of rent due in respect thereof.

Preamble.

WHEREAS doubts have arisen, in consequence of the repeal of section 16 of Regulation VII of 1832,[a] as to the authority by whom patní taluqs and other saleable under-tenures of the nature defined in clause 1 of section 8 of Regulation VIII of 1819[b] are to be sold for arrears of rent due to the proprietor on account thereof; and whereas it is expedient to amend the law for the sale of under-tenures in satisfaction of decrees for the recovery of such arrears; It is enacted as follows:—

"Collector" defined.

1. The word "Collector" as used in this Act includes all officers exercising the full powers of a Collector of a district.

Number.

Words used in the singular number include the plural.

2.—[*Repealed by Act No. XII of 1873.*]

Sale by whom conducted.

3. The sale for the recovery of arrears of rent of patní taluqs and other saleable under-tenures of the nature defined in clause 1 of section 8 of Regulation VIII of 1819[c] shall be conducted by the Collector of land-revenue in whose jurisdiction, as defined by Act VI of 1853,[d] the lands lie, and all acts preparatory to, or connected with, the sale of such under-tenures as aforesaid, which, by Regulations VIII of 1819[e] and I of 1820,[f] the Judge is required to perform, shall be performed by the said Collector.

Publication of notice of sale.

4. Whenever a decree for an arrear of rent, due in respect of an under-tenure saleable under the provisions of section 105 of Act X of 1859,[g] shall have been obtained, and an application for the sale of the said under-tenure under the same section shall have been made and allowed, the Collector, in whose Court the decree is in course of execution, shall thereupon cause to be hung up in his own Court and in that of the Collector and the Judge of the district within which the land comprised in the under-tenure to be sold is situated, and to be affixed on some conspicuous place on the land and in the town or village in or nearest to which the said land is situated, a notice for the sale of the said under-tenure on some fixed date not less than twenty days

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[a] Repealed by Act No. VI of 1871. [b], [c], [e] See *supra*, p. 158. [d] See *supra*, p. 287.
[f] See *supra*, p. 172, [g] See *supra*, p. 356.

from the hanging-up of the said notice in the Court in which the decree is in course of execution.

Contents of notice of sale.

5. The said notice shall specify, in the words used in the plaint in the suit in which the decree was made, the name of the village, estate and pargana, or other local division, in which the land comprised in the said under-tenure is situated, the yearly rent payable under the said under-tenure, and the gross amount recoverable under the said decree.

How sale may be stopped.

6. If the sum due under the decree, together with interest to date of payment and all costs of process, be paid into Court at any time before the sale commences, whether by the defaulting holder of the under-tenure or any one on his behalf, or any one interested in the protection of the under-tenure, such sale shall not take place; and the provisions of section 13 of Regulation VIII of 1819,[a] for the recovery of sums paid by other than the defaulting holder of the under-tenure to stay the sale of the under-tenure, shall be applicable to all similar payments made under this section.

Sale to highest bidder.

7. The under-tenure shall be sold to the highest bidder in open Court.

Deposit by purchaser.

8. The party who shall be declared to be the purchaser shall be required to deposit immediately, in cash or Government currency-notes, twenty-five per cent. of the amount of his bid; and, in default of such deposit, the under-tenure shall be put up again and sold forthwith, or on the next ensuing office-day.

Deposit forfeited if balance of purchase-money not paid up.

9. The full amount of the purchase-money shall be made good by the purchaser before sunset of the eighth day from that on which the sale of the under-tenure took place, reckoning that day as one of the eight; or, if the eighth day be a Sunday or other close holiday, then on the first office-day after the eighth day: and, in default of payment within the prescribed period as aforesaid, the deposit shall be forfeited to the Government, and the under-tenure shall be re-sold, and the defaulting purchaser shall forfeit all claims thereto or to any part of the sum for which the said under-tenure may be subsequently sold.

If the proceeds of the sale which may be eventually completed be less than the price bid by the defaulting purchaser, the difference shall be leviable from him under the law for enforcing the payment of money in satisfaction of a decree for arrears of rent.

Provisions as to sales to apply to re-sales.

10. The provisions of all the sections of this Act with regard to sales shall also be applicable to all re-sales under this Act, which may be rendered necessary by the default of any purchaser.

Certificate and possession to be given to

11. When the purchase-money shall have been paid in full, the officer holding the sale shall give the purchaser a certificate in the form prescribed in

[a] See *supra*, p. 158.

the schedule annexed to this Act; and shall further, on the purchaser making application and depositing the requisite costs, depute an officer or amín to put him in possession of the under-tenure in the customary manner, and to publish the fact of the purchase to the cultivators of the lands comprised therein. purchaser on payment in full.

12. From the proceeds of the sale of the under-tenure, the officer holding such sale shall repay to the judgment-creditor the necessary expenses incurred by him in procuring it; and, after satisfying the decree in execution of which the sale was made, shall hold the residue, if any, in deposit on account of the defaulting holder of the under-tenure. Proceeds of sale how dealt with.

13. An appeal shall lie to the Collector from any proceedings of a Deputy or Assistant Collector, if made within fifteen days; and to the Commissioner from any original proceedings of a Collector under this Act, if made within thirty days from the date of the sale: but no proceedings under this Act shall be reversed or modified in appeal, except upon the ground of irrelevancy of the law, or of such an irregularity in procedure as, in the opinion of the appellate authority, has caused injury to the interests of one of the parties to the suit in which the decree was passed. Appeal.

14. No appeal as of right shall lie from any order passed in appeal under this Act; but a Commissioner in any case in which an appeal has been heard by a Collector, and the Board of Revenue in any case in which an appeal has been heard by the Commissioner, may call for the record at any time within three months from the date of the order passed in appeal, and pass thereon such orders as they may think proper. Power of revision.

15. If any sale of an under-tenure shall, under either of the two preceding sections, be set aside, the purchaser shall be entitled to receive back the purchase-money with or without interest, and in such manner as the appellate or revising authority may in each instance direct. Recovery by purchaser of purchase-money if sale set aside.

Any order for the recovery of the purchase-money or interest, passed by such appellate or revising authority as aforesaid, may be enforced by the process in force under decrees for the recovery of arrears of rent.

16. The purchaser of an under-tenure sold under this Act shall acquire it free from all incumbrances [a] which may have accrued thereon by any act of any holder of the said under-tenure, his representatives or assignees, unless the right of making such incumbrances shall have been expressly vested in the holder by the written engagement under which the under-tenure was created, or by the subsequent written authority of the person who created it, his representatives or assignees. Purchaser to acquire the under-tenure, with certain exceptions, free of incumbrances.

Provided that nothing herein contained shall be held to entitle the pur-

[a] 3 Ben. App. Civ. Jur., 184: *ibid.*, Appendix 97: 5 Beng. Appendix 37: 8 Beng. 237.

chaser to eject khúdkásht raiyats or resident and hereditary cultivators, nor to cancel *bonâ fide* engagements made with such class of raiyats or cultivators aforesaid by the late incumbent of the under-tenure or his representatives, except it be proved, in a regular suit, to be brought by such purchaser for the adjustment of his rent, that a higher rent would have been demandable at the time such engagements were contracted by his predecessor.

Nothing in this section shall be held to apply to the purchase of a tenure by the previous holder thereof, through whose default the tenure was brought to sale.

Zamíndár how to proceed if purchaser do not register.

17. The purchaser of an under-tenure sold under this Act shall apply to the zamíndár or other landholder, within fifteen days from the day of sale, to have his name registered in the zamíndár or other landholder's books as the purchaser; and shall execute a kabúliyat on the same terms and conditions on which the under-tenure was held by the defaulter; and, if such application be not made within fifteen days, it shall be lawful for the zamíndár or other landholder to sue the said purchaser under the provisions of clause 1 of section 23 of Act X of 1859.[a]

Schedule referred to in section 11.

I certify that *A B* has purchased, under Act VIII of 1865, the under-tenure (*as specified in the notice of sale*), and that his purchase took effect on the day of *(being the day after that fixed for the last day of payment).*

(Signed) *C. D.*,
Collector.

ACT No. I of 1866.

Received the Lieutenant-Governor's assent on the 6th of February 1866, and the Governor General's assent on the 26th idem.

An Act to amend certain provisions of Regulation VI of 1819 (for rescinding Regulation XIX, 1816, and for enacting other provisions in lieu thereof).

Preamble.

WHEREAS it is expedient to define more exactly the limits within which persons are prohibited from employing a ferry-boat plying for hire in the vicinity of a public ferry, and also to provide some penalty for the wilful disregard of such prohibition; It is enacted as follows:—

1.—[*Repealed by Act No. XII of 1873.*]

[a] See *supra*, p. 365.

2. Every ferry which has been or may be declared to be a public ferry under the provisions of the said Regulation VI of 1819,[a] shall belong exclusively to Government, and no person shall, except with the sanction of the Magistrate of the district, keep a ferry-boat for the purpose of plying for hire within a distance of two miles above or below the place where such public ferry is established. **Exclusive right to public ferries vested in Government, and employment of private ferries prohibited.**

3. On the requisition of the Magistrate of the district, the person in charge of such public ferry shall maintain at one or more places, in addition to the place at which the said public ferry is established, and within two miles therefrom, such number of subsidiary ferries as may seem to the said Magistrate to be necessary for the public convenience, and all the provisions of the said Regulation VI of 1819,[b] in regard to the management of public ferries, shall be deemed applicable to any subsidiary ferry maintained under the orders of the Magistrate as aforesaid. **Provision for subsidiary ferries.**

4. All claims for compensation which may be preferred by any person or persons for any loss which may be sustained by them in consequence of any ferry having been declared public as aforesaid, shall be inquired into by such Magistrate, who shall award compensation to any such person or persons who may appear justly entitled thereto.[c] **Claims for compensation how dealt with.**

Such compensation shall be calculated upon an estimate of the annual nett profit actually realized by such person or persons from such ferry on an average of the five years next preceding such declaration, and shall in no case exceed the amount of fifteen times such nett annual profit.

5. Any person who wilfully acts in contravention of the provisions of section 2 of this Act, shall be liable to the punishment provided by section 447 of the Indian Penal Code. **Penalty for acting in contravention of section 2.**

ACT No. II of 1866.

Received the Lieutenant-Governor's assent on the 1st of March 1866, and the Governor General's assent on the 14th idem.

An Act to provide for the better regulation of the Police within the suburbs of the town of Calcutta.[d]

WHEREAS it is expedient to exclude the suburbs of the town of Calcutta from the general police-district of Bengal, and to make provision for the **Preamble.**

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[a], [b] See *supra*, p. 153.

[c] See Bengal Act No. V of 1866, section 140.

[d] Offences punishable under this Act are to be inquired into and tried under section 8 of the Code of Criminal Procedure, see Bengal Act No. I of 1874, section 2.

better regulation of the Police within the limits so excluded; It is enacted as follows:—

Suburbs may be excluded from general Police-district.

1. It shall be lawful for the Lieutenant-Governor of Bengal to exclude the suburbs of the town of Calcutta or any portion thereof, from the general Police-district of the Provinces subject to his control, and the limits of the tract of country so excluded shall be defined in a notification to be published in the *Calcutta Gazette*, and the operation of this Act shall be confined to such limits.

Provided that it shall be lawful for the said Lieutenant-Governor from time to time to alter such limits by such notification as aforesaid.

Police for suburbs.

2. For the suburbs of the town of Calcutta so defined as aforesaid there shall be a Police-force, which shall consist of such number of officers and men, and shall be otherwise constituted in such manner, as shall be from time to time ordered by the Lieutenant-Governor of Bengal.

Police to be under control of Commissioner of Police, Calcutta.

3. The Police-force of the suburbs of the town of Calcutta shall be under the exclusive direction and control of the Commissioner of Police for the town of Calcutta, who may from time to time, subject to the approbation of the said Lieutenant-Governor, frame such orders and regulations as he shall deem expedient, relative to the general government of the force, the places of residence, the classification, rank, distribution and particular service of the several members thereof, their inspection, and the description of arms, accoutrements and other necessaries to be furnished to them; and all such other orders and regulations relative to the said Police-force as the said Commissioner shall, from time to time, deem expedient for preventing neglect or abuse, and for rendering such force efficient in the discharge of all its duties.

Appointment, &c., of force to rest with Commissioner.

4. The appointment of the members of the Police-force shall rest with the Commissioner of Police, and he may, at any time, suspend or dismiss any member of the force whom he shall think remiss or negligent in the discharge of his duty, or otherwise unfit for the same.

Commissioner may fine for lesser breaches of discipline.

5. For any lesser breach of discipline or other misconduct not requiring the suspension or dismissal of the offender, a member of the Police-force may be fined by the Commissioner any sum not exceeding one-half of his monthly pay.

Additional penalties for neglect of duty, &c.

6. For neglect or violation of duty in his office, and for any breach of the orders and regulations framed as aforesaid, every member of the Police-force, besides being suspended or dismissed from his employment, at the discretion of the Commissioner, shall be liable, on conviction before a Magistrate, to a fine not exceeding one hundred rupees (which may be deducted from any salary then due to such offender), or to imprisonment, simple or rigorous, for any term not exceeding three months.

Police not to resign without notice.

7. No member of the Police-force to be enrolled under this Act, shall be at liberty to resign his office, or to withdraw himself from the duties thereof, unless expressly allowed so to do in writing by the Commissioner, or unless he shall have given to the Commissioner six months' notice of his intention if a member of the mounted branch of the said force, and two months' notice if a member of any other branch; and every member of the said force who shall so resign or withdraw himself without such leave or notice, shall be liable, on the order of the Commissioner, to forfeit all arrears of pay then due to him; and, on the sentence of a Magistrate, to pay a fine not exceeding fifty rupees, or to undergo imprisonment of either description for any term not exceeding two months.

On enrolment, Police-officer to receive certificate.

8. Every member of the Police-force shall receive on his enrolment a certificate in the form hereunto annexed, under the signature of the Commissioner of Police, by virtue of which he shall be vested with the powers, functions and privileges of a Police-officer.

Such certificate shall cease to have effect whenever the person named in it is suspended or dismissed, or otherwise removed from employment in the force.

Penalty for dismissed members not delivering up clothing, &c.

9. Every member of the Police-force who shall be dismissed from or shall cease to hold and exercise his office, and who shall not forthwith deliver up his certificate, and all the clothing, accoutrements and appointments, and other necessaries which may have been supplied to him for the execution of his duty, to the Commissioner or to such person and at such time and place as shall be directed by the said Commissioner, shall be liable, on conviction before a Magistrate, to imprisonment of either description for any term not exceeding one month.

And it shall be lawful for the Commissioner, or for any Magistrate, to issue his warrant to search for and seize all the clothing, accoutrements, appointments and other necessaries which shall not be so delivered over, wherever the same may be found.

Superannuation Fund.

10. There shall be deducted from the pay of every member of the Police-force, of a class not entitled to the benefit of the Uncovenanted Service pension-rules, a sum after such rate as the said Lieutenant-Governor shall direct, not exceeding one anna in the rupee; which sum so deducted shall, from time to time, be invested in such manner, and in such securities, as the said Lieutenant-Governor may in writing direct, and the said sum so invested, together with the interest and dividends thereof, shall form a fund, to be called "The Police Superannuation Fund," and shall be applied from time to time to payment of such superannuation or retiring allowances or gratuities as may be ordered by the said Lieutenant-Governor at any time to any of the aforesaid members of the Police-force.

Proviso.

Provided that any Police-officer may be dismissed or removed without a superannuation-allowance, and that no Police-officer shall be entitled as of right to any allowance from the said fund, or shall retain any right to a refund of any deduction made from his pay while he shall have been a Police-officer.

Disposal of proceeds of certain fines, &c.

11. The moneys accruing from stoppages from members of the Police-force during absence from sickness or other cause, and from fines imposed on members thereof for misconduct, and from fines imposed by Magistrates upon drunken persons, or for assaults upon Police-officers, and all moneys from the sale of worn or cast-off clothing or other articles supplied for the use of the Police, shall be applied in aid of any fund applicable to Police-purposes.[a]

Appointment of special Police-officers.

12. The Commissioner of Police may, of his own authority, appoint special Police-officers to assist on any temporary emergency.

Powers of special Police-officers.

13. Every special Police-officer so appointed shall have the same powers, privileges and protection, and shall be liable to perform the same duties, and shall be amenable to the same penalties, and be subordinate to the same authorities, as the ordinary officers of Police.

Penalty for special Police-officer neglecting or refusing to serve, &c.

14. If any person, being appointed a special Police-officer as aforesaid, shall, without sufficient excuse, neglect or refuse to serve as such, or to obey such lawful order or direction as may be given to him for the performance of his duties, he shall be liable, upon conviction before a Magistrate, to a fine not exceeding fifty rupees for every such neglect, refusal or disobedience.

Appointment of additional Police-officers on application of private persons.

15. The Commissioner of Police may also, if he shall think fit, on the application of any person shewing the necessity of it, appoint any additional number of Police-officers to keep the peace at any place within the limits of the operation of this Act, at the charge of the person applying, but subject to the orders of the said Commissioner, and for such time as he shall think fit; and every such Police-officer shall receive a certificate, by virtue of which he shall be vested with all the powers, privileges and duties of the Police-officers belonging to the ordinary force.

Provided that the person upon whose application such appointment shall have been made, may, upon giving one month's notice in writing to the Commissioner of Police, require that the Police-officers so appointed at his expense shall be discontinued, and thereupon the said Commissioner shall discontinue such additional Police-officers; and all moneys received by the Commissioner for the payment of any such additional Police-officers shall be accounted for by him.

Apprehension and punishment of re-

16. A Police-officer may arrest without a warrant any person found, between sunset and sunrise, armed with any dangerous

[a] See Bengal Act No. V of 1876, section 59.

or offensive instrument whatsoever, with intent to commit any offence against the person or property of another; puted thieves, &c.

any reputed thief found, between sunset and sunrise, on board any vessel or boat, or lying or loitering in any bázár, street, road, yard, thoroughfare or other place, who shall not give a satisfactory account of himself;

any person found, between sunset and sunrise, having his face covered or otherwise disguised, with intent to commit any such offences as aforesaid;

any person found, between sunset and sunrise, in any dwelling-house or other building whatsoever, without being able satisfactorily to account for his presence therein; and

any person having in his possession, without lawful excuse (the proof of which excuse shall be on such person), any implement of house-breaking;

and such person shall be liable to imprisonment, with or without hard labour, for a term not exceeding three months.

17. On proof to the satisfaction of the Commissioner of Police or of a Magistrate, that a house is used as a common brothel, or lodging-house for prostitutes or disorderly persons of any description, such Commissioner or Magistrate may summon the owner or tenant of the house to answer the complaint, and on being satisfied that the house is so used, and is a source of annoyance and offence to the neighbours, may order the owner or tenant to discontinue such use of it, and if he shall fail to comply with such order within five days, may impose upon him a fine to the extent of twenty-five rupees for every day thereafter that the house shall be so used. Brothels.

18. Whoever has or keeps any hotel, tavern, punch-house, ale-house, arrack or toddy-shop, or place for the sale or consumption of gánja, chandu or other preparation of opium, hemp or other intoxicating drug, plant or substance; or has or keeps any coffee-house, boarding-house, eating-house, lodging-house or other place of public resort and entertainment, wherein provisions, liquors or refreshments are sold or consumed (whether the same be kept or retailed therein or procured elsewhere) without a license to be obtained in the manner hereinafter mentioned, shall be liable to a fine not exceeding fifty rupees for every day that the said house or place of entertainment is kept open, or the sale of provisions, liquors or refreshments is continued, without the necessary license. Penalty for keeping hotel, &c., without license.

Provided that nothing in this Act shall apply to the sale, in reasonable quantities, of any drug, plant or substance in any chemist's or druggist's shop for medicinal purposes only.

19. No license shall be granted under the provisions of the Bengal Excise Act, 1878,[a] unless the person applying for such license shall produce a certi- Excise-license not to be granted with-

[a] See Bengal Act No. VII of 1878, section 3, clause 4.

out certificate of Commissioner of Police.

ficate from the Commissioner of Police, stating that a license may be granted to him for the sale of spirituous liquors or intoxicating drugs, as the case may be, without risk or detriment to the preservation of peace and good order, and containing a full statement of such conditions as may have been imposed and shall have remained in force, under the provisions hereinafter contained, at the date when such license shall be granted.

No license so granted shall be renewable without a fresh certificate as aforesaid, previously obtained from the Commissioner of Police, subject to the order and control of the said Lieutenant-Governor.

Duration and conditions of license.

20. It shall be competent to the Commissioner of Police, subject to the direction and control of the said Lieutenant-Governor, to limit, in such certificate as aforesaid, the period for which the license may be granted, and also to fix such conditions as he may deem necessary for securing the good behaviour of the keepers of the houses and places of entertainment as aforesaid, and for the prevention of drunkenness and disorder among the persons frequenting the same, and from time to time to vary such conditions, subject to such direction and control as aforesaid; and no license granted under the said Bengal Excise Act, 1878,[a] shall be valid unless it shall contain such conditions as shall have been imposed and shall remain in force for the time being under this section.

Penalty for keeping up sign-board or notice after expiry of license.

21. Whenever any license granted as aforesaid shall have ceased to have effect, it shall be lawful for the Commissioner of Police to order the person to whom such license shall have been granted, to remove or cause to be removed any sign-board or other notice which such person might have been theretofore bound, under the terms of his said license, to keep affixed on or near the house or place of public resort or entertainment for which such license had been granted; and any person who shall fail to obey any such order forthwith, shall be liable, on conviction, to a fine of ten rupees for every day thereafter during which he shall so fail.

Commissioner may grant licenses for places for which no licenses are required under Ben. Act VII of 1878.

22. The Commissioner of Police may, at his discretion, from time to time, grant licenses to the keepers of such houses or places of public resort and entertainment as aforesaid for which no such license as is specified in the said Bengal Excise Act, 1878,[b] is required, upon such conditions, to be inserted in every such license, as he, with the sanction of the said Lieutenant-Governor, from time to time shall order, for securing the good behaviour of the keepers of the said houses or places of public resort or entertainment and the prevention of drunkenness and disorder among the persons frequenting or using the same; and the said licenses may be granted by the said Commissioner for any term not exceeding one year.

[a, b] Bengal Act No. VII of 1878.

Penalty for breach of condition of license.

23. Any person committing a breach of any of the conditions of a license granted either under section 19 or section 22 of this Act shall, on conviction before a Magistrate, be punishable by a fine not exceeding one hundred rupees, and such fine shall be recovered from the person licensed, notwithstanding that such breach may have been owing to the default or carelessness of the servant or other person in charge of the shop or place of sale.

Any person so convicted shall also be liable to the forfeiture of his license, at the discretion of the Commissioner of Police, subject to the direction and control of the said Lieutenant-Governor.

Fee for certificate.

24. For every certificate or license granted by the Commissioner of Police under this Act, there shall be levied a fee of two rupees.

Penalty for owning or keeping, or having charge of, common gaming-house, &c.

25.[a] Whoever, being the owner or occupier, or having the use, of any house, room or place, shall keep or use the same as a common gaming-house; and whoever, being the owner or occupier of any house or room, shall knowingly and wilfully permit the same to be kept or used by any other person as a common gaming-house; and whoever shall have the care or management of, or in any manner assist in conducting, the business of any house, room or place so kept or used; and whoever shall advance or furnish money for the purpose of gaming with persons frequenting such house, room or place, shall be liable to a fine not exceeding two hundred rupees, or to imprisonment of either description for any term not exceeding three months.

Penalty for being found playing in common gaming-house.

26. Whoever shall be found in any such house, room or place, playing or gaming with cards, dice, counters, money or other instruments of gaming, or shall be found there present for the purpose of gaming whether playing for any money, wager, stake or otherwise, shall be liable to a fine not exceeding one hundred rupees, or to imprisonment of either description for any term not exceeding one month; and any person found in any common gaming-house during any gaming or playing therein, shall be presumed, until the contrary be proved, to have been there for the purpose of gaming.

Power to authorize entry of common gaming-house for search and seizure.

27. If the Commissioner of Police or Magistrate, upon information on oath, and after such inquiry as he may think necessary, shall have reason to believe that any house, room or place is used as a common gaming-house, he may, by his warrant, give authority to any superior officer of Police to enter, with such assistance as may be found necessary, by night or by day, and by force if necessary, any such house, room or other place; and to take into custody all persons whom he finds therein, whether or not then actually gaming; and to seize all instruments of gaming, and all moneys and securities for money, and articles of value, reasonably suspected to have been

[a] Sections 25 to 30 of this Act will be repealed, in the suburbs of Calcutta, by Bengal Act No. II of 1867, when that Act is extended thereto.

used or intended to be used for the purpose of gaming, which are found therein; and to search all parts of the house, room or place which he shall have so entered, when he shall have reason to believe that any instruments of gaming are concealed therein, and also the persons of those whom he so takes into custody; and to seize and take possession of all instruments of gaming found upon such search.

Evidence of house being common gaming-house.

28. When under the provisions of the last preceding section any cards, dice, gaming-table or cloth, board or other instruments of gaming shall be found in any house, room or place, or about the person of any of those who are found therein, it shall be evidence until the contrary shall be made to appear that such house, room or place is used as a common gaming-house, and that the persons found therein were there present for the purpose of gaming, although no play was actually seen by the Police-officer or any of his assistants.

On conviction for keeping common gaming-house, instruments of gaming to be destroyed, &c.

29. On conviction of any person for keeping any such common gaming-house, or being present therein for the purpose of gaming, all the instruments of gaming found therein shall be destroyed by order of the Magistrate, who may also order all or any of the securities for money and other articles seized, not being instruments of gaming, to be sold and converted into money, and the proceeds thereof, with all moneys seized therein, to be forfeited; or, in his discretion, may order any part thereof to be returned to the persons appearing to have been severally thereunto entitled.

Proof of playing for stakes unnecessary.

It shall not be necessary, in order to convict any person of keeping a common gaming-house, or of being concerned in the management of any common gaming-house, to prove that any person found playing at any game was playing for any money, wager or stake.

Witnesses indemnified.

30. Any person who shall have been concerned in gaming contrary to this Act, and who shall be examined as a witness before a Magistrate on the trial of any person for a breach of any of the provisions of this Act relating to gaming, and who, upon such examination, shall make true and faithful discovery, to the best of his knowledge, of all things as to which he shall be so examined, and who shall thereupon receive from the said Magistrate a certificate in writing to that effect, shall be freed from all prosecutions under this Act for anything done before that time in respect of such gaming.

Portion of fine may be paid to informer.

31. The Magistrate may direct any portion, not exceeding one-fourth, of any fine which shall be levied under sections 25 and 26 of this Act, or any part of the moneys or proceeds of articles seized and ordered to be forfeited under section 29, to be paid to an informer.

32.—[*Repealed by Bengal Act No. II of 1867.*]

Pawn-brokers and money-changers to

33. If any property answering the description set forth in any information which shall be given by any Police-officer to any pawn-broker, or dealer in

second-hand property or money-changer, regarding property stolen or fraudulently obtained, shall then be, or thereafter come, into the possession of, or be offered in pawn, or for sale or change, to such pawn-broker, dealer or money-changer, he shall, without unnecessary delay, give information to that effect at the nearest Police-office, and shall also state the name and address given by the party by whom the same was offered, or from whom the same was received; provided always that, in the case of wearing apparel or other articles which it may be difficult for such pawn-broker or dealer to trace out and identify, no fine shall be exigible in respect of not reporting such articles, unless it shall appear to the Magistrate that such articles had been knowingly concealed by such pawn-broker or dealer.

report stolen property under penalty for neglect.

34. Whoever shall manufacture gunpowder or, without a license from the Commissioner of Police, shall have in his possession, in any house, shop, warehouse or other building, at any one time, a greater quantity of gunpowder than ten pounds, shall be liable to a fine not exceeding five hundred rupees, and also to forfeit such gunpowder so manufactured or possessed, together with the vessel or receptacle in which it may be contained.

Manufacture or possession of gunpowder.

35. The Commissioner of Police may grant to any person a license for the sale or keeping in deposit of any quantity of gunpowder not exceeding fifty pounds, on such conditions and for such term, not exceeding one year, as shall be specified in the license; and any person who shall be guilty of a breach of any of such conditions, shall, on conviction before a Magistrate, be liable to a fine not exceeding two hundred rupees, and to forfeit all gunpowder so kept in deposit contrary thereto, and the vessels containing it, and also, in the discretion of the Magistrate or of the Commissioner, to forfeit his license.

Licenses by Commissioner for sale and deposit of gunpowder, &c.

36. The Commissioner of Police may grant to any person a license for the transit and carrying of gunpowder from one place to another, in such manner and in such quantity as he may deem advisable: and any person, not being duly licensed in that behalf, who shall carry or convey a greater quantity of gunpowder than one pound from one place to another, shall be liable to a fine not exceeding fifty rupees.

Licenses for conveying and removing gunpowder.

37. The Commissioner of Police, on credible information laid before him on oath, may issue his warrant authorizing a Police-officer to search in the day-time any house, shop, magazine or other building or place in which he shall have reasonable ground to suspect that any gunpowder is manufactured, sold or kept, or any boat, carriage, cart or other vehicle in which any gunpowder may be suspected to be carried, or any person suspected of carrying the same, contrary to the provisions of this Act; and all gunpowder found on such search shall, together with the vessels or receptacles in which it may be stored, be immediately seized and kept, pending the judgment of a Magistrate.

Commissioner may issue warrant to search for gunpowder &c.

Act not to apply to Government gunpowder, &c.

38. None of the four last preceding sections shall extend to any Government magazine or store, or building for the making or deposit of gunpowder under the authority or for the use of the Government, or to any gunpowder belonging to Government.

Commissioner may make rules for conduct of assemblies and processions.

39. The Commissioner of Police from time to time, as occasion may require, may, subject to the orders of the said Lieutenant-Governor, make rules for the conduct of all assemblies and processions in the public roads, streets, thoroughfares within the limits aforesaid, prescribing the routes by which, and the times at which, such processions may pass, and for keeping order in the public roads, streets, thoroughfares, ghâts and landing-places, and all other places of public resort, and preventing obstructions thereof, on the occasion of such assemblies and processions, and in the neighbourhood of places of worship during the time of public worship; and in any case when the roads, streets, thoroughfares, ghâts or landing-places may be thronged, or may be liable to be obstructed; and may give licenses for the use of music in the streets on the occasion of Native festivals and ceremonies.

Every person opposing or not obeying the orders so issued by the Commissioner of Police, or violating the conditions of such license, shall be liable to a fine not exceeding one hundred rupees.

Penalty for committing in public streets offence of—

40. Whoever, within such limits as shall be from time to time defined by the Commissioner of Police, with the sanction of the said Lieutenant-Governor, in any public street, road, thoroughfare or place of public resort, shall commit any of the following offences, shall be liable to a fine not exceeding fifty rupees :—

Driving, &c., elephant or camel :

1. whoever shall drive, ride or lead any elephant or camel without permission from the Commissioner of Police :

Driving vehicle without sufficient light :

2. whoever shall drive any vehicle of any description, at any time between three-quarters of an hour after sunset, and one hour before sunrise, without a sufficient light, except when, in the opinion of the Magistrate, there may be sufficient moonlight to render such light unnecessary :

Driving otherwise than on left side of road :

3. whoever, without reasonable cause, shall drive a carriage, cart or other vehicle otherwise than on the left or near side of the road :

Exposing for show horses, cleaning or repairing conveyances, or training horses, in places not allowed by Commissioner :

4. whoever shall expose for show, hire or sale, any horse or other animal, or any carriage; or shall clean or dress any horse or other animal; or shall clean any carriage or other conveyance; or shall make or repair any part of any cart or carriage, except in cases of accident where repair on the spot is necessary; or shall train or break any horse, except in such place and at such times as may be allowed by the Commissioner :

Negligence in driving cattle :

5. whoever, by negligence or ill-usage in driving cattle, shall cause any mischief to be done by such cattle; or shall anywise misbehave himself in the

driving, management or care of such cattle, so as to cause mischief or obstruction :

Leaving cart, &c., without control :

6. whoever, being in charge of a cart, carriage or horse, shall leave it at such a distance as not to have the same under due control :

Obstructing road or thoroughfare by carriage, &c. :

7. whoever shall cause any cart or truck, with or without horses or cattle, to remain or stand longer than may be necessary for loading or unloading, except at places lawfully appointed for the purpose ; or shall leave any cart, carriage or truck, or fasten any horse or other animal, so as to cause any obstruction in any thoroughfare :

Obstructing foot-ways :

8. whoever shall lead or ride any horse or other animal, or draw or drive any cart, carriage or truck upon any foot-way, or shall fasten any horse or animal so that it can stand across or upon any foot-way ;

Beating drums, tom-toms, &c. :

9. whoever shall beat a drum or tom-tom, or blow a horn or trumpet, or beat or sound any brass or other metal instrument or utensil, except at such times and places as shall be from time to time allowed by the Commissioner of Police :

Lighting fires and discharging guns, fire-works, &c. :

10. whoever shall set fire to or burn any straw or other matter, or light any bonfire, or wantonly discharge any fire-arm or air-gun, or let-off or throw any fire-work, or send up any fire-balloon, except at such times and places as shall from time to time be allowed by the Commissioner of Police :

Driving cart with insufficiently greased wheels :

11. whoever, by driving a hackery or cart with insufficiently greased wheels, shall create a noise which is reasonably calculated to cause annoyance to persons frequenting or residing near the thoroughfare in which such hackery or cart is driven :

Illuminations :

12. whoever, without the consent of the Commissioner of Police, shall put up any post or other thing on the side of any public street, for the purpose of affixing thereon lamps to illuminate the street :

Affixing bills or otherwise defacing houses, &c :

13. whoever, without the consent of the owner or occupier, shall affix any bill or notice, or any paper, against or upon any building, wall or fence, or shall write upon, deface or mark any such building, wall or fence with chalk or paint or in any way whatsoever :

Bathing, &c., in public street or aqueduct. :

14. whoever shall bathe or wash himself in any public street, or in, upon, or by the side of, any public tank, reservoir or aqueduct, not being a place set apart for such purpose :

Obstructing persons at bathing places :

15. whoever shall obstruct or incommode a person bathing at any place set apart as a bathing place, by wilful intrusion, or by using such place as a landing-place, or by anchoring or otherwise fastening or keeping boats, or by washing horses, cattle or dogs, at or near such place, or in any other way :

16.—[*Repealed by Bengal Act No. I of 1869, section 40.*]

Beggars :

17. whoever, in any public road, street, thoroughfare or place, shall beg or apply for alms, or shall expose or exhibit any sores, wounds, bodily ailment

or deformity, with the object of exciting charity, or of obtaining alms; or shall seek for or obtain alms by means of any false statement or pretences:

Exposing person, &c.

18. whoever wilfully and indecently exposes his person, or commits a nuisance by easing himself.

Penalty for drunkenness in public.

41. Whoever is found drunk and incapable of taking care of himself, in any street or thoroughfare, or in any place of public amusement or resort, shall be liable to a fine not exceeding ten rupees, or to imprisonment of either description for a term not exceeding twenty-four hours.

Stray dogs.

42. It shall be lawful for the Commissioner of Police, by order in writing to be affixed at the principal Police-stations, and also to be published in some public newspaper, to appoint, from time to time, certain periods within which any dogs found straying in the streets, or beyond the enclosures of the houses of the owners of such dogs, may be destroyed.

Police-officer may arrest without warrant on view of offence.

43. Any Police-officer may arrest without a warrant any person committing in his view any offence against this Act, if the name and address of such person be unknown to such Police-officer, and cannot be ascertained by him.

Arrest of person committing offence with respect to person or property of another.

44. Whoever commits an offence on or with respect to the person or property of another, or, in committing an offence under this Act, injures or damages the person or property of another, may, if his name and address be unknown, be apprehended by the person injured, or by any person who may be using the property to which the injury may be done, or by the servant of either of such persons or by any person authorized by or acting in aid of him, and may be detained until he give his name and address, and satisfy such person that the name and address so given are correct, or until he can be delivered into the custody of a Police-officer.

Persons taken into custody by Police-officer without warrant, may be detained in Police-office until brought before Magistrate or bailed.

45. Every person taken into custody without a warrant by a Police-officer under this Act, shall be taken to the nearest Police-station-house in order that such person may be detained until he can be brought before the Magistrate, or until he shall enter into recognizances, with or without sureties, for his appearance before the Magistrate.

Any person so detained and not entering into recognizances, with or without such sureties, shall be carried before the Magistrate within twenty-four hours from the time of his being taken into custody.

Power to take recognizance at station-house.

46. Whenever any person shall be brought to a station-house charged with any offence against this Act, it shall be lawful for the officer in charge of such station-house, or any superior officer of Police, if he shall deem it prudent to enlarge such person on his own recognizance, with or without sureties, conditioned as hereinafter mentioned.

Condition of recognizance.

47. Every recognizance so taken shall be without fee or reward, and shall be conditioned for the appearance of the person thereby bound before a Magistrate at his next sitting, and all the persons executing the said recognizance shall acknowledge themselves jointly and severally bound in the sum—not exceeding one thousand rupees—thereby acknowledged, and the time and place of appearance shall be specified in the said recognizance, or in the condition thereof; and the officer taking the recognizance shall enter in a book, to be kept for the purpose, the name, residence and occupation of the party and his surety or sureties (if any) entering into such recognizance, together with the condition thereof, and the sum thereby acknowledged, and shall return every such recognizance to the Magistrate present at the time and place when and where the party is bound to appear.

Recovery and appropriation of fines.

48. All fines imposed under the authority of this Act shall be recoverable in the manner prescribed by section 307 of the Code of Criminal Procedure,[a] and the amount so levied shall be appropriated to any fund applicable to Police-purposes.

Imprisonment in lieu of fine.

Provided that it shall be lawful for the Magistrate, when it shall appear to him that the fine cannot be realized by recourse to the provisions above-mentioned, to sentence the offender to imprisonment in lieu of any fine to which such offender is liable under this Act, and the term of such imprisonment shall be fixed in accordance with the scale laid down in section 67 of the Indian Penal Code.

49.—[*Repealed by Bengal Act No. I of 1874.*]

Powers of Deputy Commissioner.

50. The Deputy Commissioner of Police for the town of Calcutta may, under the orders of the Commissioner, exercise all or any of the powers vested in the latter by the provisions of this Act.

Interpretation.

51. The following words and expressions in this Act shall have the meanings hereby assigned to them, unless there be something in the subject or context repugnant to such construction (that is to say)—

"Property."

the word "property" shall include any chattel, money or valuable security:

"Person."

the word "person" shall include a corporation:

"Month."

the word "month" shall mean calendar month:

"Oath."

the word "oath" shall include any affirmation or declaration lawfully substituted for an oath:

"Common gaming-house."

the words "common gaming-house" shall be taken to mean any house, room or place in which cards, dice, tables or other instruments of gaming are kept or used for the profit or gain of the person owning or keeping such house, room or place, whether by way of charge or the use of the instruments of gaming, or of the house, room or place, or otherwise howsoever:

[a] See Act No. X of 1872, schedule V.

"Cattle." the word "cattle" shall, besides horned cattle, include horses, asses, mules, sheep, goats and swine:

Number. words importing the singular number shall include the plural number, and words importing the plural number shall include the singular number:

Gender. words importing the masculine gender shall include females.

Act XXI of 1857 repealed in suburbs. 52. Act XXI of 1857[a] *(to make better provision for the order and good government of the suburbs of Calcutta and of the station of Howrah)* is hereby repealed, so far as it applies to such portion of the suburbs of the town of Calcutta as shall for the time being be subject to the operation of this Act.

FORM OF CERTIFICATE.—(*Referred to in section 8*).

A. B. has been appointed a (superintendent, inspector, jamadár, dárogha *or* peon, *as the case may be*) in the suburban Police-force, and is vested with the powers, functions and privileges of a Police-officer.

ACT No. III of 1866.

Received the Lieutenant-Governor's assent on the 13th of March 1866, and the Governor General's assent on the 23rd idem.

An Act to provide for the attendance and examination of witnesses before the Council of the Lieutenant-Governor of Bengal for making laws and regulations.

Preamble. WHEREAS it is expedient to make provision for the attendance of witnesses before the Council of the Lieutenant-Governor of Bengal for making laws and regulations and for the examination of such witnesses; It is enacted as follows:—

Lieutenant-Governor may, by summons, require person to appear before Council. 1. It shall be lawful for the Lieutenant-Governor of Bengal, by a summons under the hand of the Secretary or Assistant-Secretary to the Government of Bengal in the Legislative Department for the time being, to require the attendance before the Council of the Lieutenant-Governor of Bengal for making laws and regulations, at a time and place to be mentioned in such summons, of any person, residing within any of the Provinces or places subject to the government of the Lieutenant-Governor of Bengal, whose evidence shall, in the judgment of such Council, be material with reference to any project of law, Bill or Act then under consideration by such Council; and by such summons to require the person so summoned to produce before such Council all such books, deeds and writings as to the said Council shall appear

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[a] See *supra*, p. 333.

necessary for obtaining information as to the matter so under consideration: and every person so summoned shall, according to the exigency of the summons, attend before the said Council, and produce such books, deeds and writing as shall be in his power, custody or control.

Administration of oath or affirmation.

2. It shall be lawful for the said Secretary or Assistant-Secretary to the Government of Bengal in the Legislative Department for the time being, or any other officer appointed in that behalf by the Lieutenant-Governor, to administer an oath or affirmation, in such form as to the said Council shall seem fit, to any person appearing in obedience to such summons as aforesaid.

But nothing herein contained shall prevent such person from giving evidence without oath or affirmation, if the said Council shall think it expedient that the evidence should be so given.

Powers against persons failing to appear, &c.

3. If any person upon whom any such summons shall be served by the delivery thereof to him, or leaving thereof at his usual or last-known place of abode, shall, without reasonable cause (to be allowed by the said Lieutenant-Governor of Bengal), fail to appear before the said Council at the time and place mentioned in the summons, or shall refuse to make oath or affirmation as required, or shall not make answer to such questions as shall be put to him touching the matter under consideration as aforesaid, or shall refuse or fail, without reasonable cause (to be allowed by the said Lieutenant-Governor of Bengal), to produce to the said Council any book, deed or writing in his possession, power or control as by the said Council he shall be required to produce (whether mentioned in the summons or not), the Lieutenant-Governor of Bengal shall, on the report of the said Council that such failure or refusal has taken place, have the power, by warrant under his hand, to direct that such person be apprehended and committed to close custody in a place and for a time specified in the warrant, unless he shall in the meantime comply, to the satisfaction of the said Council, with such requisitions as have been made on him touching his examination.

The warrant may be directed to any officer appointed in that behalf by the Lieutenant-Governor.

Expenses of witnesses.

4. Whenever a summons is issued for the attendance of a witness under this Act, the Lieutenant-Governor of Bengal may, if he thinks fit, order such witness to receive from the Collector or Commissioner of the district or division in which the witness resides, such expenses as he would have been entitled to receive if summoned as a witness before the principal Court of original jurisdiction within the limits of which he shall be residing.

Provisions of sections 21

5. The provisions of sections 21 and 32 of Act II of 1855[a] (*for the further*

[a] Repealed by Act No. I of 1872.

and 32 of Act II of 1855 extended.

improvement of the Law of Evidence) shall extend to witnesses examined before the said Council of the Lieutenant-Governor of Bengal.

Interpretation. Number.

6. Throughout this Act, unless the contrary appears from the context, words importing the singular shall include the plural, and words importing the plural shall include the singular number:

Gender.

words importing the masculine gender shall include the feminine:

"Council."

the word "Council" shall include any committee of the whole Council, and any select committee of the Council of the Lieutenant-Governor of Bengal for making laws and regulations.

ACT No. IV of 1866.

Received the Lieutenant-Governor's assent on the 13th of March 1866, and the Governor General's assent on the 23rd idem.

An Act to amend and consolidate the provisions of Act XIII of 1856[a] (for regulating the Police of the towns of Calcutta, Madras and Bombay) and of Act XLVIII of 1860[b] (to amend Act XIII of 1856).

Preamble.

WHEREAS it is expedient to amend and consolidate the provisions of Act XIII of 1856[c] and of Act XLVIII of 1860,[d] so far as the said Acts are applicable to the town of Calcutta; It is enacted as follows:—

Short title.

1. This Act may be cited as "The Calcutta Police Act, 1866."

2.—[*Repealed by Act No. XII of 1873.*]

Interpretation.

3. The following words and expressions in this Act shall have the meanings hereby assigned to them, unless there be something in the subject or context repugnant to such construction (that is to say)—

"Town."

the words "town of Calcutta" shall include all places within the local limits of the jurisdiction of Her Majesty's High Court of Judicature at Fort William in Bengal:

"Magistrate."

the word "Magistrate" shall mean any Magistrate of Police acting for the said town:

"Property."

the word "property" shall include any chattel, money or valuable security:

"Month."

the word "month" shall mean calendar month:

"Oath."

the word "oath" shall include any affirmation or declaration lawfully substituted for an oath:

"Common gaming-house."

the words "common gaming-house" shall be taken to mean any house, room or place in which cards, dice, tables or other instruments of gaming are

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a, b, c, d Repealed as to Calcutta by section 2 of this Act.

kept or used for the profit or gain of the person owning or keeping such house, room or place, whether by way of charge for the use of the instruments of gaming, or of the house, room or place, or otherwise howsoever :

"Cattle." the word "cattle" shall, besides horned cattle, include horses, asses, mules, sheep, goats and swine :

Number. words importing the singular number shall include the plural number, and words importing the plural number shall include the singular number :

Gender. words importing the masculine gender shall include females.

Appointment and removal of Commissioner of Police. 4. The administration of the Police in the town of Calcutta shall be vested in an officer to be styled the Commissioner of Police for such town, who shall from time to time be appointed by the Lieutenant-Governor of Bengal and may be removed by the same authority, and who shall receive such salary as the Governor General of India in Council shall allow.

Appointment of deputies to Commissioner. 5. The said Lieutenant-Governor may from time to time appoint one or more deputies to the Commissioner of Police, who shall be competent to perform any of the duties assigned to that officer under his orders.

The Deputy Commissioner may be removed at any time by order of the said Lieutenant-Governor.

Commissioner shall not ordinarily be a Magistrate. 6. The Commissioner of Police shall not ordinarily be a Magistrate of Police under this Act, but, with the sanction of the Governor General of India in Council, may be appointed to that office, when the said Lieutenant-Governor for special reasons may deem it expedient.

Commissioner to be Justice of the Peace, but to act only in certain cases. 7. The Commissioner of Police shall be appointed a Justice of the Peace, but unless he is vested with the jurisdiction of a Magistrate of Police, he shall act as a Justice only so far as may be necessary for the preservation of the peace, the prevention of crimes, and the detection, apprehension and detention of offenders in order to their being brought before a Magistrate of Police; and so far as may be necessary for the performance of the duties assigned to the Commissioner by this Act.

The deputies to the Commissioner of Police may be appointed Justices of the Peace, and, if so appointed, shall act in that capacity subject to the above restriction.

Constitution of Police-force. 8. For the said town of Calcutta there shall be a Police-force, which shall consist of such number of officers and men, and shall be otherwise constituted in such manner, as shall be, from time to time, ordered by the said Lieutenant-Governor, with the sanction of the Governor General of India in Council.

Police to be under control of Commissioner. Rules for govern- 9. The Police-force shall be under the exclusive direction and control of the Commissioner of Police, who may from time to time, subject to the approbation of the said Lieutenant-Governor, frame such orders and regula-

ment of Police to be made by Commissioner and approved by Government.

tions as he shall deem expedient, relative to the general government of the force, the places of residence, the classification, rank, distribution and particular service of the several members thereof; their inspection; the description of arms, accoutrements and other necessaries to be furnished to them; and all such other orders and regulations relative to the said Police-force as the said Commissioner shall from time to time deem expedient for preventing neglect or abuse, and for rendering such force efficient in the discharge of all its duties.

Appointment, &c., of Police to rest with Commissioner.

10. The appointment of the members of the Police-force shall rest with the Commissioner of Police, and he may at any time suspend or dismiss any member of the force whom he shall think remiss or negligent in the discharge of his duty, or otherwise unfit for the same.

Power to fine members of Police.

11. For any lesser breach of discipline, or other misconduct not requiring the suspension or dismissal of the offender, a member of the Police-force may be fined by the Commissioner in any sum not exceeding one-half of his monthly pay.

Additional penalties for members for neglect of duty, &c.

12. For neglect or violation of duty in his office, and for any breach of the orders and regulations framed as aforesaid, every member of the Police, besides being suspended or dismissed from his employment at the discretion of the Commissioner, shall be liable, on conviction before a Magistrate, to a fine not exceeding one hundred rupees (which may be deducted from any salary then due to such offender), or to imprisonment, with or without hard labour, for any term not exceeding three months.

Members to receive certificates vesting them with powers of constable.

13. Every member of the Police-force shall receive on his enrolment a certificate (A), under the signature of the Commissioner of Police, by virtue of which he shall be vested with the powers, functions and privileges of a constable.

Such certificate shall cease to have effect whenever the person named in it is suspended or dismissed, or otherwise removed from employment in the force.

Members not to resign without leave or notice.

14. No member of the Police-force, to be enrolled under this Act, shall be at liberty to resign his office, or to withdraw himself from the duties thereof, unless expressly allowed so to do in writing by the Commissioner, or unless he shall have given to the Commissioner six months' notice of his intention, if a member of the mounted branch of the said force, and two months' notice if a member of any other branch; and every member of the said force, who shall so resign or withdraw himself without such leave or notice, shall be liable, on the order of the Commissioner, to forfeit all arrears of pay then due to him; and, on the sentence of a Magistrate, if such Magistrate shall think fit, to pay a fine not exceeding fifty rupees, or to be imprisoned, with or without hard labour, for any term not exceeding two months.

Penalty for dismissed members not delivering up clothing, accoutrements, &c.

15. Every member of the Police-force, who shall be dismissed from, or shall cease to hold and exercise, his office, and who shall not forthwith deliver up his certificate, and all the clothing, accoutrements and other necessaries which may have been supplied to him for the execution of his duty, to the Commissioner, or to such person, and at such time and place, as shall be directed by the said Commissioner, shall be liable, on summary conviction before a Magistrate, to imprisonment, with or without hard labour, for any term not exceeding one month.

And it shall be lawful for the Commissioner, or for any Magistrate, to issue his warrant to search for and seize all the clothing, accoutrements, appointments and other necessaries which shall not be so delivered over, wherever the same may be found.

Police Superannuation Fund.

16. There shall be deducted from the pay of every member of the Police-force, of a class not entitled to the benefit of the Uncovenanted Service pension-rules, a sum, after such rate as the said Lieutenant-Governor shall direct, not exceeding one anna in the rupee, which sum so deducted shall, from time to time, be invested in such manner and in such securities as the said Lieutenant-Governor may in writing direct; and the said sum so invested, together with the interest and dividends thereof, shall form a fund, to be called "The Police Superannuation Fund," and shall be applied, from time to time, to payment of such superannuation or retiring-allowances or gratuities as may be ordered by the said Lieutenant-Governor at any time to any of the aforesaid members of the Police-force.

Provided that any Police-officer may be dismissed or removed without a superannuation-allowance, and that no Police-officer shall be entitled as of right to any allowance from the said fund, or shall retain any right to a refund of any deduction made from his pay while he shall have been a Police-officer.

Disposal of proceeds of certain fines, &c.

17. All sums accruing from stoppages from members of the Police-force during absence from sickness or other cause and fines imposed on members thereof for misconduct, and from fines imposed by Magistrates upon drunken persons or for assaults upon Police-officers, and all moneys arising from the sale of worn or cast-off clothing or other articles supplied for the use of the Police, shall be credited to any fund applicable to Police-purposes.

Power to appoint special constables.

18. The Commissioner of Police may, of his own authority, appoint special constables to assist the Police-force on any temporary emergency.

Powers of special constables.

19. Every special constable so appointed shall have the same power, privileges and protection, and shall be liable to perform the same duties, and shall be amenable to the same penalties, and be subordinate to the same authorities, as the ordinary officers of Police.

Penalty for special constable neglecting or refusing to serve, &c.

20. If any person, being appointed a special constable as aforesaid, shall, without sufficient excuse, neglect or refuse to serve as such, or to obey such lawful order or direction as may be given to him for the performance of his duties, he shall be liable, upon conviction before a Magistrate, to a fine not exceeding fifty rupees for every such neglect, refusal or disobedience.

Appointment of additional constables on application of private individuals.

21. The Commissioner of Police may also, if he shall think fit, on the application of any person shewing the necessity of it, appoint any additional number of constables to keep the peace at any place within his jurisdiction, at the charge of the person applying, but subject to the orders of the said Commissioner, and for such time as he shall think fit; and every such constable shall receive a certificate, by virtue of which he shall be vested with all the powers, privileges and duties of the constable belonging to the Police-force.

Proviso.

Provided that the person upon whose application such appointment shall have been made may, upon giving one month's notice in writing to the Commissioner of Police, require that the constables so appointed at his expense shall be discontinued, and thereupon the said Commissioner shall discontinue such additional constables; and all moneys received by the Commissioner for the payment of any such additional constables shall be accounted for by him.

22, 23, 24.—[*Repealed by Act No. IV of 1877.*]

Execution of warrants.

25. When any warrant shall be directed or delivered to any such officer, unless the authority issuing it shall order that it be executed without delay, such Police-officer shall deliver the same to the superior officer in charge of the division to which he belongs, who shall appoint, by endorsement thereon, one or more Police-officers to execute the same; and every Police-officer whose name shall be so endorsed thereon shall have the same powers, privileges and protection, as if the same had been originally directed to him by name.

26, 27, 28.—[*Repealed by Act No. IV of 1877.*]

Penalty for wilful trespass on property.

29. Whoever, without satisfactory excuse, wilfully trespasses in or on any dwelling-house or premises, or on any land or ground attached thereto, or on any boat or vessel, not thereby causing any actual damage, or on any ground belonging to Government or appropriated to public purposes, shall be liable, on summary conviction before a Magistrate, to a fine not exceeding twenty rupees.

30, 31.—[*Repealed by Act No. IV of 1877.*]

Apprehension and punishment of reputed thieves, &c.

32. Any person found between sunset and sunrise armed with any dangerous or offensive instrument whatsoever, with intent to commit any criminal act; any reputed thief found between sunset and sunrise on board any vessel or

boat, or lying or loitering in any bázár, street, road, yard, thoroughfare or other place, who shall not give a satisfactory account of himself;

any person found between sunset and sunrise having his face covered or otherwise disguised, with intent to commit any offence;

any person found between sunset and sunrise in any dwelling-house or other building whatsoever, without being able satisfactorily to account for his presence therein; and

any person having in his possession, without lawful excuse (the proof of which excuse shall be on such person), any implement of house-breaking—

may be taken into custody by any Police-officer without a warrant, and shall be liable, on summary conviction before a Magistrate, to imprisonment, with or without hard labour, for any term not exceeding three months.

Penalty for taking spirits into barracks or on board vessels of war.

33. Whoever, not being amenable to the Articles of War for Her Majesty's Army or Her Majesty's Navy, or for the Native officers or soldiers in Her Majesty's Indian Army, takes, or attempts to take, into Fort William at Calcutta, or into any military barracks, guard-rooms or encampments within the town of Calcutta, or on board or alongside of any vessel of war belonging to Her Majesty in the port of the said town, any spirits or spirituous or fermented liquors, or intoxicating drugs or preparations, without the license in writing of the commanding officer (unless such articles are intended for some person above the rank of non-commissioned officer) shall be liable, on summary conviction before a Magistrate, to a fine not exceeding one hundred rupees, or imprisonment for any term not exceeding two months, with or without hard labour; and such liquors, drugs or preparations, and the vessels containing the same, shall be forfeited.

Penalty for taking spirits, &c., into jail.

34. Whoever takes, or attempts to take, without due permission, or throws, or attempts to throw, into any jail or house of correction, or into any public hospital, any spirits or spirituous or fermented liquors, or intoxicating drugs or preparations, shall be liable, on summary conviction before a Magistrate, to a fine not exceeding fifty rupees, or to imprisonment, with or without hard labour, for any term not exceeding two months.

Penalty for keeping hotel, &c., without license.

35. Whoever in the town of Calcutta has or keeps any hotel, tavern, punch-house, ale-house, arrack or toddy-shop, or place for the sale or consumption of gánja, chandu or other preparation of opium, hemp or other intoxicating drug, plant or substance, or has or keeps any coffee-house, boarding-house, eating-house, lodging-house or other place of public resort and entertainment, wherein provisions, liquors or refreshments are sold or consumed (whether the same be kept or retailed therein or procured elsewhere), without a license to be obtained in the manner hereinafter mentioned, shall be liable, on summary conviction before a Magistrate, to a fine not exceeding

fifty rupees for every day that the said house or place of entertainment is kept open, or the sale of provisions, liquors or refreshments is continued without the necessary license.

Provided that nothing in this Act shall apply to the sale in reasonable quantities of any drug, plant or substance in any chemist's or druggist's shop for medicinal purposes only.

Excise-license not to be granted without certificate of Commissioner.

36. No license shall be granted under the provisions of the Bengal Excise Act, 1878,[a] unless the person applying for such license shall produce a certificate from the Commissioner of Police, stating that a license may be granted to him for the sale of spirituous liquors or intoxicating drugs, as the case may be, without risk or detriment to the preservation of peace and good order, and containing a full statement of such conditions as may have been imposed, and shall have remained in force under the provisions hereinafter contained at the date when such license shall be granted.

No license so granted shall be renewable without a fresh certificate as aforesaid previously obtained from the Commissioner of Police, subject to the order and control of the Lieutenant-Governor of Bengal.

Duration and conditions of license.

37. It shall be competent to the Commissioner of Police, subject to the direction and control of the said Lieutenant-Governor, to limit in such certificate as aforesaid, the period for which the license may be granted, and also to fix such conditions as he may deem necessary for securing the good behaviour of the keepers of the houses and places of entertainment as aforesaid, and for the prevention of drunkenness and disorder among the persons frequenting or using the same, and from time to time to vary such conditions subject to such direction and control as aforesaid; and no license granted under the said Bengal Excise Act, 1878,[b] shall be valid, unless it shall contain such conditions as shall have been imposed and shall remain in force for the time being under this section.

Penalty for keeping up sign-board or notice after expiry of license.

38. Whenever any license granted as aforesaid shall have ceased to have effect, it shall be lawful for the Commissioner of Police to order the person to whom such license shall have been granted, to remove or cause to be removed any sign-board or other notice which such person might have been theretofore bound, under the conditions of his said license, to affix on or near the house or place of public resort or entertainment for which such license had been granted; and any person who shall fail to obey any such order forthwith, shall be liable, on summary conviction before a Magistrate, to a fine of ten rupees for every day thereafter during which he shall so fail.

Commissioner

39. The Commissioner of Police may, at his discretion, from time to time,

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[a, b] See Bengal Act No. VII of 1878, section 3, clause 4.

grant licenses to the keepers of such houses or places of public resort and entertainment as aforesaid for which no license as is specified in the said Act XI of 1849[a] is required, upon such conditions, to be inserted in every such license, as he with the sanction of the said Lieutenant-Governor from time to time shall order, for securing the good behaviour of the keepers of the said houses or places of public resort or entertainment, and the prevention of drunkenness and disorder among the persons frequenting or using the same; and the said licenses may be granted by the said Commissioner for any time not exceeding one year.

Licenses for places for which no licenses are required under Act XI of 1849.

40. Any person committing a breach of any of the conditions which in accordance with section 37 of this Act are included in a license granted under the said Bengal Excise Act, 1878,[b] or of any of the conditions subject to which a license is given under section 39 of this Act, shall, on summary conviction before a Magistrate, be liable to a fine not exceeding one hundred rupees; and such fine shall be recovered from the person licensed, notwithstanding that such breach may have been caused by the default or carelessness of the servant or other person in charge of the shop or place of sale.

Penalty for breach of conditions of license.

Any person so convicted shall also be liable to the forfeiture of his license, at the discretion of the Commissioner of Police, subject to the direction and control of the said Lieutenant-Governor.[c]

41. For every certificate or license granted by the Commissioner of Police under this Act, there shall be levied a fee of two rupees.

Fee for certificate and license.

42. Whoever, in any place within the said town, wilfully harbours or conceals any seaman or apprentice belonging to any vessel other than a vessel of the navy of the Queen, knowing, or having reason to believe, such seaman or apprentice to be a deserter, shall be liable, on summary conviction before a Magistrate, to a fine not exceeding one hundred rupees.

Penalty for harbouring and concealing deserters from merchant-vessels.

43. On proof to the satisfaction of the Commissioner of Police, or of a Magistrate, that a house is used as a common brothel, or lodging-house for prostitutes or disorderly persons of any description, such Commissioner or Magistrate may summon the owner or tenant of the house, and, on being satisfied that the house is so used, and is a source of annoyance and offence to the neighbours, may order the owner or tenant to discontinue such use of it; and, if he shall fail to comply with such order within five days, may impose upon him a fine to the extent of twenty-five rupees for every day thereafter that the house shall be so used.

Brothels.

44. Whoever, being the owner, occupier, or having the use, of any house, room or place, opens, keeps or uses the same as a common gaming-house;

Penalty for owning or keeping, or

[a, b] Bengal Act No. VII of 1878. [c] See Bengal Act No. II of 1876, section 12.

being employed in gaming-house, &c.

and whoever, being the owner or occupier of any house or room, knowingly and wilfully permits the same to be opened, kept or used by any other person as a common gaming-house; and whoever has the care or management of, or in any manner assists in conducting, the business of any house, room or place so opened, kept or used; and whoever advances or furnishes money for the purpose of gaming with persons frequenting such house, room or place, shall be liable, on summary conviction before a Magistrate, to a fine not exceeding five hundred rupees, or to imprisonment, with or without hard labour, for any term not exceeding three months.

Penalty for being found playing in gaming-house.

45. Whoever is found in any such house, room or place, playing or gaming with cards, dice, counters, money or other instruments of gaming, or is found there present for the purpose of gaming, whether playing for any money, wager, stake or otherwise, shall be liable, on summary conviction before a Magistrate, to a fine not exceeding two hundred rupees, or to imprisonment, with or without hard labor, for any term not exceeding one month; and any person found in any common gaming-house during any gaming or playing therein, shall be presumed, until the contrary be proved, to have been there for the purpose of gaming.

Commissioner or Magistrate may grant warrants to Police-officers to enter gaming-house for search and seizure.

46. If the Commissioner of Police or a Magistrate, upon information on oath, and after such enquiry as he may think necessary, has reason to believe that any house, room or place is used as a common gaming-house, he may, by his warrant, give authority to any inspector or superior officer of Police to enter, with such assistance as may be found necessary, by night or by day, and by force if necessary, any such house, room or other place, and to take into custody all persons whom he finds therein, whether or not then actually gaming, and to seize all instruments of gaming, and all moneys and securities for money and articles of value, reasonably suspected to have been used or intended to be used for the purpose of gaming, which are found therein, and to search all parts of the house, room or place which he shall have so entered, when he has reason to believe that any instruments of gaming are concealed therein, and also the persons of those whom he so takes into custody, and to seize and take possession of all instruments of gaming found upon such search.

Common gaming-house.

47. When, under the provisions of the last preceding section, any cards, dice, gaming-table or cloth, board or other instruments of gaming, are found in any house, room or place, or about the person of any of those who are found therein, it shall be evidence, until the contrary is made to appear, that such house, room or place is used as a common gaming-house, and that the persons found therein were there present for the purpose of gaming, although no play was actually seen by the Police-officer or any of his assistants.

48. On conviction of any person for keeping any such common gaming-house, or being present therein for the purpose of gaming, all the instruments of gaming found therein shall be destroyed by order of the Magistrate, who may also order all or any of the securities for money and other articles seized, not being instruments of gaming, to be sold and converted into money, and the proceeds thereof, with all money seized therein, to be forfeited, or, in his discretion, may order any part thereof to be returned to the persons appearing to have been severally thereunto entitled.

On conviction for keeping common gaming-house, instruments of gaming to be destroyed, &c.

49. It shall not be necessary, in order to convict any person of keeping a common gaming-house or of being concerned in the management of any common gaming-house, to prove that any person found playing at any game was playing for any money, wager or stake.

Proof of playing for stakes unnecessary.

50. Any person who shall have been concerned in gaming contrary to this Act, and who shall be examined as a witness before a Magistrate on the trial of any person for a breach of any of the provisions of this Act relating to gaming, and who, upon such examination shall make true and faithful discovery, to the best of his knowledge, of all things as to which he shall be so examined, and who shall thereupon receive from the said Magistrate a certificate in writing to that effect, shall be freed from all prosecutions under this Act for anything done before that time in respect of such gaming.

Witnesses indemnified.

51. The Magistrate may direct any portion, not exceeding one-fourth, of any fine which shall be levied under sections 44 and 45 of this Act, or any part of the moneys or proceeds of articles seized and ordered to be forfeited under section 48, to be paid to an informer.

Portion of fine may be paid to informer.

52.—[*Repealed by Bengal Act No. II of 1867, section 17.*]

53. If any property answering the description set forth in any information which shall be given by any Police-officer to any pawn-broker or dealer in second-hand property, or money-changer regarding property stolen or fraudulently obtained, shall then be or thereafter come into the possession of, or be offered in pawn, or for sale or change, to such pawn-broker, dealer or money-changer, he shall, without unnecessary delay, give information to that effect at the nearest Police-station, and shall also state the name and address given by the party by whom the same was offered, or from whom the same was received, under a penalty, to be imposed by a Magistrate on summary conviction, not exceeding fifty rupees for each and every such neglect or offence; provided always that, in the case of wearing apparel or other articles which it may be difficult for such pawn-broker or dealer to trace out and identify, no fine shall be exigible in respect of not reporting such articles, unless it shall appear to the Magistrate that such articles had been knowingly concealed by such pawn-broker or dealer.

Pawn-brokers and money-changers to report stolen property under penalty for neglect.

Taking pledge from child under age of fourteen.

54. Whoever takes from any child, apparently under the age of fourteen years, any article whatsoever as a pawn, pledge or security for any sum of money lent or advanced to such child, or, without the knowledge and consent of the owner of the article, buys from any child any article whatsoever, shall be liable, on summary conviction before a Magistrate, to a penalty not exceeding one hundred rupees.

Standard weights and measures.

55. The Commissioner of Police shall keep in his office standard weights and measures; and weights and measures shall be held to be false when they do not agree with such standards.

Powers of inspector, &c., to enter shops to seize false weights and measures.

56. Any inspector or superior officer of Police may enter any shop or premises for the purpose of inspecting the weights and measures, and instruments for weighing, kept or used therein, and may seize any weight, measure or instrument for weighing which he may have reason to believe is false.

Manufacture or possession of gunpowder.

57. Whoever manufactures gunpowder, or, without a license from the Commissioner of Police, has in his possession, in any house, shop, warehouse or other building, at any one time, a greater quantity of gunpowder than ten pounds, shall be liable, on a summary conviction before a Magistrate, to a fine not exceeding five hundred rupees, and also to forfeit such gunpowder so manufactured or possessed, together with the vessel or receptacle in which it may be contained.

Licenses by Commissioner for sale and deposit of gunpowder, &c.

58. The Commissioner of Police may grant to any person a license for the sale or keeping in deposit of any quantity of gunpowder not exceeding fifty pounds, on such conditions, and for such term, not exceeding one year, as shall be specified in the license; and any person who shall be guilty of a breach of any of such conditions shall, on summary conviction before a Magistrate, be liable to a fine not exceeding two hundred rupees, and to forfeit all gunpowder so kept in deposit contrary thereto, and the vessels containing it, and also, in the discretion of the Magistrate, or of the Commissioner, to forfeit his license.

Licenses for conveying and removing gunpowder.

59. The Commissioner of Police may grant to any person a license for the transit and carrying of gunpowder from one place to another, in such manner and in such quantity as he may deem advisable; and any person, not being duly licensed in that behalf, who carries or conveys a greater quantity of gunpowder than one pound from one place to another, shall be liable, on summary conviction before a Magistrate, to a fine not exceeding fifty rupees.

Commissioner may issue warrant to search for gunpowder, &c.

60. The Commissioner of Police, on credible information laid before him on oath, may issue his warrant authorizing a Police-officer to search in the day time any house, shop, magazine or other building or place in which he has reasonable ground to suspect that any gunpowder is manufactured, sold or kept, or any boat, carriage, cart or other vehicle in which any gunpowder may be suspected to be carried, or any person suspected of carrying the same, con-

trary to the provisions of this Act; and all gunpowder found on such search shall, together with the vessels or receptacles in which it may be restored, be immediately seized and kept, pending the judgment of a Magistrate.

Act not to apply to Government gunpowder, &c.

61. None of the four last preceding sections shall extend to any Government magazine or store, or building for the making or deposit of gunpowder under the authority or for the use of the Government, or to any gunpowder belonging to Her Majesty.

Regulation of public processions, &c., and of carriages and persons at places of public resort.

62. The Commissioner of Police, from time to time, as occasion may require, may, subject to the orders of the said Lieutenant-Governor, make rules for the conduct of all assemblies and processions in the public roads, streets or thoroughfares, prescribing the routes by which, and the times at which, such processions may pass; and for keeping order in the public roads, streets, thoroughfares, ghâts and landing-places, and all other places of public resort, and preventing obstructions thereof on the occasion of such assemblies and processions, and in the neighbourhood of places of worship during the time of public worship; and in any case when the roads, streets or thoroughfares, ghâts or landing-places may be thronged, or may be liable to be obstructed; and may give licenses for the use of music in the streets on the occasion of Native festivals and ceremonies.

Licenses for use of music in streets.

Every person opposing or not obeying the orders so issued by the Commissioner of Police, or violating the conditions of such license, shall be liable, on summary conviction before a Magistrate, to a fine not exceeding one hundred rupees.

Passenger-boats to be registered.

63. No boat shall ply for passengers in the port of Calcutta unless duly registered at the Police-office. The following particulars shall be entered in the register:—

First.—Number of the boat:

Second.—Name and residence of the owner, and of the mánjhí:

Third.—Number of the crew:

Fourth.—Number of persons the boat is permitted to carry:

Registration.

The registration shall be in force for one year; and every change of the owner or mánjhí within that time shall be therein noted.

A fee of one rupee shall be paid on registration.

Name of owner or mánjhí, number, &c., to be painted.

The owner or mánjhí of every such registered boat shall cause to be painted on a conspicuous part of it, in the English and vernacular languages, the registered number thereof, the number of the crew, and the number of passengers permitted to be carried.

Penalty.

The owner or mánjhí of a boat plying for passengers without being duly registered, or carrying more passengers, or with a less crew than is stated in the register, or not having the prescribed particulars painted on it, shall be

liable, on summary conviction before a Magistrate, to a fine not exceeding fifty rupees.

Power to refuse or cancel registry.

64. The Commissioner may refuse to register any boat, or may cancel the registration thereof whenever it may appear to him to be in an unsafe state.

Penalty for delaying to report accident attended with loss of life.

65. Whenever any accident shall occur to a registered boat, attended with loss of the life of any one of the crew or passengers, the mánjhí, or, if the mánjhí be not forthcoming, the owner of the boat, shall report the circumstances at the Police-office; and if the mánjhí or the owner, as the case may be, without lawful excuse, neglect or delay to make such report, he shall be liable, on summary conviction before a Magistrate, to a fine not exceeding fifty rupees.

Penalty for committing in public streets, the offence of—

66. Whoever, within such limits as shall be from time to time defined by the Commissioner of Police with the sanction of the said Lieutenant-Governor, in any public street, road, thoroughfare or place of public resort, commits any of the following offences, shall be liable, on summary conviction before a Magistrate, to a fine not exceeding fifty rupees :—

Driving, &c., elephant or camel:

(1) whoever drives, rides or leads any elephant or camel without permission from the Commissioner of Police :

Driving vehicle without sufficient light:

(2) whoever drives any vehicle of any description, at any time between three-quarters of an hour after sunset, and one hour before sunrise, without a sufficient light, except when, in the opinion of the Magistrate, there may be sufficient moonlight to render such light unnecessary :

Driving on other than left side of road:

(3) whoever, without reasonable cause, shall drive a carriage, cart or other vehicle otherwise than on the left or near side of the road :

Exposing for show or training horses, or cleaning conveyances, in places not allowed:

(4) whoever exposes for show, hire or sale, any horse or other animal, or any carriage, or cleans or dresses any horse or other animal, or cleans any carriage or other conveyance, or makes or repairs any part of any cart or carriage, except in cases of accident where repair on the spot is necessary, or trains or breaks any horse, except in such place and at such times as may be allowed by the Commissioner :

Negligence in driving cattle:

(5) whoever, by negligence or ill-usage in driving cattle, causes any mischief to be done by such cattle, or in any wise misbehaves himself in the driving, management or care of such cattle, so as to cause mischief or obstruction :

Leaving cart, &c., without control:

(6) whoever, being in charge of a cart, carriage or horse, leaves it at such a distance as not to have the same under due control :

Obstructing road or thoroughfare by carriage, &c.:

(7) whoever causes any cart or truck, with or without horses or cattle, to remain or stand longer than may be necessary for loading or unloading, except at places lawfully appointed for the purpose; or leaves any cart, carriage or

truck, or fastens any horse or other animal, so as to cause any obstruction in any thoroughfare:

Obstructing foot-way:

(8) whoever leads or rides any horse or other animal, or draws or drives any cart, carriage or truck upon any foot-way, or fastens any horse or animal so that it can stand across or upon any foot-way:

Beating drum, tom-tom, &c.:

(9) whoever beats a drum or tomtom, or blows a horn or trumpet, or beats or sounds any brass or other metal instrument or utensil, except at such times and places as shall be, from time to time, allowed by the Commissioner of Police:

Driving cart with insufficiently greased wheels:

(10) whoever, by driving a hackery or cart with insufficiently greased wheels, shall create a noise which is reasonably calculated to cause annoyance to persons frequenting or residing near the thoroughfare in which such hackery or cart is driven:

Lighting fires and discharging guns, fire-works, &c.:

(11) whoever sets fire to or burns any straw or other matter, or lights any bonfire, or wantonly discharges any fire-arm or air-gun, or lets-off or throws any fire-work, or sends up any fire-balloon, in or near any public street, road or thoroughfare, except at such times and places as shall, from time to time, be allowed by the Commissioner of Police:

Illuminations:

(12) whoever, without the consent of the Commissioner of Police, puts up any post or other thing on the side of any public street, for the purpose of affixing thereon lamps to illuminate the street:

Affixing bills, or otherwise defacing houses, &c.:

(13) whoever, without the consent of the owner or occupier, affixes any bill or notice, or any paper, against or upon any building, wall or fence, or writes upon, defaces or marks any such building, wall or fence with chalk or paint, or in any way whatsoever:

Bathing, &c., in public street or aqueduct:

(14) whoever bathes or washes himself in any public street, or in, upon, or by the side of, any public tank, reservoir or aqueduct, not being a place set apart for such purpose:

Obstructing persons at bathing-places.

(15) whoever obstructs or incommodes a person bathing at any place set apart as a bathing-place, by wilful intrusion, or by using such place as a landing-place, or by anchoring or otherwise fastening or keeping boats, or by washing horses, cattle or dogs at or near such place, or in any other way.

67.—[*Repealed by Bengal Act No. I of 1869, section 8.*]

Penalty for drunkenness, or riotous or indecent behaviour in public.

68. Whoever is found drunk and incapable of taking care of himself, in any street or thoroughfare, or in any place of public amusement or resort, shall be liable, on summary conviction before a Magistrate, to a fine not exceeding ten rupees, or to imprisonment with or without hard labour for a term not exceeding twenty-four hours.

69.—[*Repealed by Act No. IV of 1877.*]

Beggars.

70. Whoever in any public road, street, thoroughfare or place begs or applies for alms, or exposes or exhibits any sores, wounds, bodily ailment or deformity, with the object of exciting charity or of obtaining alms; or whoever seeks for or obtains alms by means of any false statement or pretences, shall be liable, on summary conviction before a Magistrate, to imprisonment with or without hard labour for any term not exceeding one month.

Stray animals to be impounded and sold unless redeemed within ten days.

71. It shall be lawful for all persons, and it is hereby declared to be the special duty of all Police-officers, to seize all cattle or other animals found straying upon the roads, streets or thoroughfares, or trespassing on any of the grounds or property of the inhabitants, or of the Government, and to confine such animals in any public pound which shall for such purpose be from time to time appointed by the Commissioner of Police; and if such animals shall not be respectively redeemed by the owners of the same within ten days after being so impounded, by paying to the person to be appointed by the said Commissioner to have charge of such pound, the fee of eight annas for every goat, sheep or hog, and one rupee for every other animal, together with the expenses of feeding the same while impounded, according to a daily rate to be settled by the said Commissioner, such animals so impounded shall be publicly sold, and the produce of such sale, after paying the said fee and also the expenses of feeding, shall be paid to the owners of such animal, or in default of their claiming such produce for the space of fifteen days after such sale, shall be retained by the said Commissioner, and credited to any fund applicable to Police-purposes.

Power to arrest without warrant.

72. Any Police-officer may arrest without a warrant any person committing, in his view, any of the offences described or referred to in this Act.

73.—[*Repealed by Act No. IV of 1877.*]

Apprehension of offenders by private individuals.

74. Whoever commits an offence on or with respect to the person or property of another, or, in committing any of the offences described or referred to in this Act, injures or damages the person or property of another, may, if his name and address be unknown, be apprehended by the person injured, or by any person who may be using the property to which the injury may be done, or by the servant of either of such persons, or by any person authorized by or acting in aid of him, and may be detained until he give his name and address, and satisfy such person that the name and address so given are correct, or until he can be delivered into the custody of a Police-officer.

Penalty for assaulting or resisting person apprehending under sec. 74.

75. If any person lawfully apprehended under the last preceding section shall assault or forcibly resist the person by whom he shall be so apprehended, or any person acting in his aid, he shall be liable to a fine not exceeding two hundred rupees.

Detention of persons taken into custody

76. Every person taken into custody without a warrant by a Police-officer shall be taken to the station-house, in order that such person may be detained

by Police without warrant.

until he can be brought before a Magistrate, or until he shall enter into recognizances, with or without sureties, for his appearance before a Magistrate.

Power to take recognizances at station-houses.

77. Whenever any person is brought to a station-house charged with any offence against this Act, or with any of the offences numbered 1, 2, 3, 4, 5, 6, 7, 9, 10, 11, 12, 13, 14, 20, 21, 22, 23, 24 and 25 in section 26 of this Act; or whenever a person is in the custody of any Police-officer without a warrant, it shall be lawful for the officer in charge of such station-house, or any superior officer of Police, if he shall deem it prudent, to enlarge such person on his own recognizance, with or without sureties, conditioned as hereinafter mentioned.

Condition of recognizance.

78. Every recognizance so taken shall be without fee or reward, and shall be conditioned for the appearance of the person thereby bound before the Magistrate at his next sitting, and all persons executing the said recognizance shall acknowledge themselves jointly and severally bound in the sum (not exceeding one thousand rupees) thereby acknowledged, and the time and place of appearance shall be specified in the said recognizance, or in the condition thereof; and the officer taking the recognizance shall enter in a book, to be kept for the purpose, the name, residence and occupation of the party, and his surety or sureties (if any) entering into such recognizance, together with the condition thereof, and the sum thereby acknowledged, and shall return every such recognizance to the Magistrate present at the time and place when and where the party is bound to appear.

On suspicion of goods being stolen or unlawfully obtained, Commissioner may grant search-warrant.

79. If information shall be given on oath to the Commissioner of Police, that there is reasonable cause for suspecting that any thing stolen or unlawfully obtained is concealed or lodged in any dwelling-house, building or other place, or any ship or vessel, the Commissioner by special warrant under his hand directed to any Police-officer, may cause such dwelling-house, building or other place, or ship or vessel, to be entered and searched at any time of the day or by night, if power for that purpose be given by such warrant; and the said Commissioner if it shall appear to him necessary, may empower such Police-officer, with such assistance as may be found necessary (such officer having previously made known his authority), to use force for the effecting of such entry, whether by breaking open doors or otherwise, and if, upon search thereupon made, such thing shall be found, then to convey the same before a Magistrate, or to guard the same on the spot until the offenders are taken before a Magistrate, or otherwise dispose thereof in some place of safety; and moreover to take into custody, and carry before the said Magistrate, every person found in such house or place, or ship or vessel, who shall appear to have been privy to the deposit of any such thing, knowing or having reasonable cause to suspect the same to have been stolen or otherwise unlawfully obtained.

Power to search houses for stolen property without warrant.

80. If information shall be given to any officer of Police not below the rank of inspector, that there is reasonable cause for suspecting that any stolen property is concealed or lodged in any dwelling-house or other place, and he shall have good grounds for believing that, by reason of the delay in obtaining a search-warrant, the property is likely to be removed, the said officer, in virtue of his office, may search for specific articles alleged to have been stolen in the houses and places specified; provided always that a list of the articles stolen or missing be delivered or taken down in writing, with a declaration stating that the robbery has been committed, and that the informant has good ground to believe that the property is deposited in such house or place; and provided, further, that the person who lost the goods, or his representative, accompany the officer in the search.

Seizure of stolen property.

81. It shall be lawful for any Police-officer to seize any property or thing which may be found in the possession of any person, where the possession by such person of such property or thing creates a reasonable suspicion of the committal of an offence; and such seizure shall be forthwith reported to the Commissioner of Police, who shall thereupon make such order respecting the custody or production of the property as he shall think proper.

82 to 94.—[*Repealed by Act No. IV of 1877.*]

If Magistrate certifies non-appearance of person pursuant to recognizance, sum acknowledged may be recovered as fine.

95. If any person, upon entering into such recognizance as is by this Act authorized to be taken, do not afterwards appear pursuant to such recognizance, the Magistrate before whom he ought to have appeared shall certify the fact of such non-appearance on the back of the recognizance, and thereupon the sum thereby acknowledged shall be recoverable in the manner provided by this Act for levying fines.

96, 97, 98.—[*Repealed by Act No. IV of 1877.*]

Limitation of action.

99. *Clause 1.*—All actions and prosecutions against any person, which may be lawfully brought for any thing done, or intended to be done, under the provisions of this Act, shall be commenced within three months after the act complained of shall have been committed, and not otherwise; and notice in writing of such action, and of the causes thereof, shall be given to the defendant one month at least before the commencement of the action; and in every such action it shall be expressly alleged in the plaint, that the act complained of was done maliciously and without reasonable or probable cause; and if at the trial of any such action, upon the general issue being pleaded as hereinafter provided, the plaintiff shall fail to prove such allegation, he shall be non-suited, and a verdict shall be given for the defendant.

Notice of action.

Plea.

Clause 2.—The defendant in any such action may plead the general issue, and give this Act and the special matter in evidence at any trial to be had thereupon; and no plaintiff shall recover in any such action, if tender of

sufficient amends shall have been made before such action brought, or if a sufficient sum of money shall have been paid into Court after such action brought, by or on behalf of the defendant; and if a verdict shall pass for the defendant, or the plaintiff shall become non-suit, or discontinue any such action after issue joined, or if, upon demurrer or otherwise, judgment shall be given against the plaintiff, the defendant shall recover his full costs as between attorney and client, and have the like remedy for the same as any defendant hath by law in other cases; and, though a verdict shall be given for the plaintiff in any such action, such plaintiff shall not have cost against the defendant, unless the Judge before whom the trial shall be shall certify his approbation of the action and of the verdict obtained thereupon.

Tender of amends.

Costs.

100. Whenever any person dies intestate within the said town leaving moveable property therein under two hundred rupees in value, which property is, in the absence of any person entitled thereto, taken charge of by the Police for the purpose of safe custody, it shall be lawful for the Commissioner of Police to order the said property to be delivered, without letters of administration taken out, to any person claiming to be entitled to the whole or any part thereof; provided he shall be satisfied of the title of the claimant, and of the value of the property, by the oath or affirmation of the claimant, or by such other evidence as he may require.[a]

Power to take charge of moveable property of persons dying intestate, and to deliver to claimant.

101. The Commissioner of Police may, at his discretion, before making any order under the preceding section, take such security as he may think proper for the due administration and distribution of such property.

Commissioner may take security for administration.

And nothing hereinbefore contained shall affect the right of any person to recover the whole or any part of the same from the person to whom it may have been delivered pursuant to such order.

Saving of right of other claimant.

102. It shall be lawful for the Commissioner of Police, by order in writing to be affixed at the principal Police-stations, and also to be published in some public newspaper, to appoint, from time to time, certain periods within which any dogs found straying in the streets or beyond the enclosures of the houses of the owners of such dogs may be destroyed.

Stray dogs to be killed at certain appointed periods.

SCHEDULE OF FORMS.

FORM A.—(*Referred to in section 13*).

A. B. has been appointed a superintendent, inspector, jamadár, dárogha *or* peon (*as the case may be*), in the Calcutta Police-force, and is vested with the powers, functions and privileges of a constable.

[a] See Act No. II of 1874, section 66.

FORM B.—(*Referred to in section 97*).

[*Omitted as that section is repealed.*]

ACT No. V OF 1866.

Received the Lieutenant-Governor's assent on the 24th of March 1866, and the Governor General's assent on the 29th idem.

An Act to make better provision for the regulation of hackney-carriages and palankeens in the town and suburbs of Calcutta.

Preamble.

WHEREAS it is expedient to make better provision for the regulation of hackney-carriages and palankeens in the town and suburbs of Calcutta; It is enacted as follows :—

1.—[*Repealed by Act No. XII of 1873.*]

REGISTRATION OF HACKNEY-CARRIAGES.

Carriages to be annually registered.

2. Every hackney-carriage, within the town and suburbs of Calcutta, shall be annually registered by a registering officer, who shall be appointed for the purpose by the Government, and who shall keep a register in which he shall enter every hackney-carriage, under either the first, the second or the third class.

Registering officer under control of Commissioner of Police.

Every act, matter or thing done by the registering officer, under or by virtue of this Act, shall be subject to the order, disposition and control of the Commissioner of Police, so far as the town and suburbs of Calcutta are concerned; and in respect of other towns and places, of such other officer as the said Lieutenant-Governor shall in that behalf appoint.

But the Local Government may, if it think fit, empower the corporation of the town of Calcutta to appoint such registering officer, and any officer when so appointed shall, so far as the town and suburbs of Calcutta are concerned, be subject to the order, disposition and control of the said corporation.

The appointment and removal of such registering officer shall be subject to the provisions of section thirty-six of the Calcutta Municipal Consolidation Act, 1876.[a]

Time and duration of registry.

3. The year of registration shall commence on the first day of April of each year; and every registration made on any date within such year of registration shall be in force to the end thereof and no longer.

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[a] See Bengal Act No. IV of 1876.

The registering officer shall, at the time of registration, deliver a license to the owner of every hackney-carriage registered as aforesaid. License to be delivered to owner.

Such license shall contain the particulars hereinafter described, and shall be in force for the year of registration and no longer.

4. The owner of any carriage, who is desirous of registering it as a hackney-carriage, must apply to the registering-officer, stating the class in which he desires that the carriage may be registered; and he shall submit the carriage for the inspection of the registering-officer at such convenient time and place as the said officer shall appoint. Application for registry.

The registering officer shall, on examination of the carriage, decide whether the carriage is fit to be registered in the class applied for, and shall accordingly either register it in that class, or refuse to grant the application. Application may be granted or refused.

The person in whose name any carriage is registered shall be deemed the owner of such carriage for the purposes of this Act.

Provided that no carriage shall be registered under the first class, unless the same belong to a coach-builder, hotel-keeper or livery stable-keeper, and do not ply for hire in the public streets. What carriages to be registered under first class.

5. The following particulars shall be entered in the register and shall be specified in the license to be given to the owner:— Form of register and license.

1st.—the class and the number assigned to the carriage in the register:

2nd.—the name and residence of the owner of the carriage:

3rd.—the number of horses to be employed in drawing such carriage:

4th.—the number of persons the carriage is licensed to carry.

6. A fee of three rupees shall be paid for each registration of a carriage of the first class, and a fee of two rupees for each registration of a carriage of the second or third class under this Act. Fee for registration.

7. The registering officer may at his discretion compound, for any period not exceeding one year, with livery stable-keepers and other persons keeping carriages of the first class for hire, for a certain sum to be paid in lieu of all fees payable during that period for the registration of such carriages. Registering officer may compound with owners of first class carriages.

8. The registering officer may cancel the registration of any carriage under this Act, whenever it shall appear to him that such carriage, or any horse or harness used with such carriage, is unfit for public use, due regard being had to the class in which such carriage is registered. Registry may be cancelled when carriage is unfit.

9. Whenever any change shall take place in the ownership of a hackney-carriage, if the person to whom such carriage shall have been transferred shall desire to use it as a hackney-carriage, he shall, before so using it, give to the registering officer notice in writing of such transfer, and of his name and place of abode. Notice on change of ownership.

If any such person shall, before giving such notice as aforesaid, use such carriage as a hackney-carriage, he shall be liable to fine not exceeding five rupees for every day during which he shall so use the same.

Owners and drivers to give notice of change of residence.

10. Whenever the owner or driver of a carriage registered under this Act shall change his residence, he shall give notice thereof in writing signed by him to the registering officer, specifying in such notice his new residence.

Every such owner or driver who shall change his residence, and shall neglect for one week to give such notice, shall be liable to a penalty not exceeding ten rupees.

Registrar to enter change of residence or ownership without fee. Penalty for not registering.

11. The registering officer, on receiving the notices specified in either of the two last preceding sections, shall make the necessary alteration in the register, and no fee shall be chargeable in respect thereof.

12. Whoever keeps, or is the proprietor of, any carriage required by this Act to be registered, and shall omit to have the same so registered, shall be liable to a fine not exceeding one hundred rupees.

Any Police-officer may seize and remove to a Police-station such carriage, together with the horse or horses drawing the same.

If the carriage so seized be not claimed, and if any fine imposed be not paid, within ten days, such carriage, together with the horse or horses seized with it, may be sold by auction, and the proceeds applied to the payment of the fine, and all costs and charges incurred on account of the detention and sale, and the surplus (if any), if not claimed by the owner within a further period of twenty days, shall be forfeited to the Government.

Plate on Hackney-carriage.

Plate, specifying class and number, to be affixed to carriage.

13. Upon the registration of any carriage in the second or third class, the registering officer shall provide a plate bearing the class and the number of such carriage in the register, and the number of persons it is licensed to carry, and shall cause such plate to be affixed on such conspicuous part of the outside of such carriage as shall to the said registering officer seem proper.

Penalty for letting carriage without plate.

14. If any carriage shall be let or used for hire without having a proper plate duly affixed as required by the preceding section, the owner thereof shall be liable to a penalty not exceeding fifty rupees.

Owner to have new plate, on loss or obliteration of former one.

15. Whenever the writing on any plate shall become obliterated or defaced, so that the same shall not be distinctly legible, and also whenever any plate shall be proved to the satisfaction of the registering officer to have been lost or mislaid, the owner of the carriage on which such plate was affixed shall deliver such plate (if he shall have the same in his possession) to the registering officer and shall be entitled to have a new plate affixed,

upon payment of such sum of money, not exceeding three rupees, as the registering officer shall from time to time appoint:

Lost plate, if found, to be delivered to registering officer.

Provided that if any plate, which shall have been proved as aforesaid to have been lost or mislaid, shall afterwards be found, the same shall forthwith be delivered to the registering officer; and every person in or into whose possession any such plate as last aforesaid shall be or come, and who shall refuse or neglect for three days to deliver the same to the said registering officer, and also every registered owner who shall use, or permit to be used, any plate after the writing thereon shall have become obliterated, defaced or obscured, so that the same shall not be distinctly legible, shall, for every such offence, be liable to a penalty not exceeding fifty rupees.

Penalty on owner for not delivering up plate on expiration of registration.

16. On the expiration or other determination of the registration, the owner of any carriage registered as aforesaid shall cause the plate of such carriage to be delivered to the registering officer.

Any person who, after the expiration of the period aforesaid, shall wilfully neglect for three days to deliver the plate to the said officer, and every person who shall retain any plate affixed in respect of a registration which is no longer in force, shall, for every such offence, be liable to a penalty not exceeding one hundred rupees.

It shall be lawful for the registering officer, or for any person employed by him for that purpose, to prosecute any person so neglecting to deliver up a plate within twelve calendar months after the expiration of the registration in respect of which such plate was affixed.

Penalty for fraudulently using counterfeit plate.

17. Every person who shall, for the purpose of deception, use or have any plate resembling or intended to resemble any plate affixed under this Act, shall, for every such offence, be liable to a penalty not exceeding two hundred rupees; and it shall be lawful for any Police-officer, or any person employed for that purpose by the registering officer, to seize and take away any plate, used or had as aforesaid, wheresoever the same may be found, and to deliver the same to the registering-officer.

Driver's License.

Drivers of hackney-carriages to be licensed.

18. It shall be lawful for the registering-officer to grant a license to act as driver of hackney-carriages to any person who shall apply for the same and to whom it may seem proper to the said officer to grant it:

Provided that no person shall be so licensed who is under fourteen years of age.

Contents of license.

In every such license shall be specified the number of the license, and the name and place of abode and age of the person to whom such license is granted.

Every license shall bear date on the day on which the same shall be granted, and shall continue in force for one year from the date thereof, unless the same shall be sooner revoked.

And for each such license a fee of two rupees shall be paid.

Penalty on driver not having license or lending it.

19. If any person shall act as the driver of a hackney-carriage, without having a license in force for the time being, or, having a license, shall transfer or lend the same, or allow the same to be used by any other person, he shall be liable to a penalty not exceeding twenty rupees, and in default of payment to imprisonment for a period not exceeding one month.

Penalty on owner for suffering unlicensed person to act as driver.

20. Any owner who shall knowingly suffer any person, not duly licensed under this Act, to act as driver of any carriage registered under this Act, of which he shall be the owner, shall be liable to a penalty not exceeding one hundred rupees for every such offence:

Provided that such owner so employing or knowingly suffering to act as driver any person who has not been duly licensed under this Act shall, and such unlicensed driver shall, be subject to all the powers, provisions, penalties and proceedings of and under this Act, for any act done or omitted to be done by such driver during such employment, in like manner as if such driver had been duly licensed.

Certified copies of particulars of license to be given on payment of fee.

21. The particulars of every license which shall be granted under the provisions of this Act shall be entered in books to be kept for that purpose at the office of the said registering officer, and every person applying shall, at all reasonable times, be furnished with a certified copy of such particulars on payment of a fee of two annas.

Driver's Ticket.

Driver to wear metal ticket.

22. The registering officer shall, at the time of granting a license to any driver of a hackney-carriage of the second or third class, deliver a metal ticket, upon which shall be marked or engraved a number corresponding with the number of his license.

Every driver to whom such ticket is delivered, shall, at all times while acting as driver, or while attending before any Magistrate, carry such ticket exposed to view.

In case any such driver shall omit to wear such ticket exposed to view while acting as driver or attending before a Magistrate, he shall be liable to a penalty not exceeding ten rupees, and in default of payment to rigorous imprisonment for a period not exceeding one month.

Driver entitled to have new ticket on loss or obliter-

23. Whenever the writing on any ticket shall become obliterated or defaced so that the same shall not be distinctly legible, and also whenever any ticket shall be proved to the satisfaction of the registering officer to have been lost or

mislaid, the person to whom the license relating to any such ticket shall have been granted shall deliver such ticket (if he shall have the same in his possession), and shall produce such license to the registering officer, and such person shall then be entitled to have a new ticket delivered to him, upon payment of such sum of money, not exceeding one rupee, as the registering officer shall from time to time appoint: ation of former one.

Provided, always, that if any ticket which shall have been proved as aforesaid to have been lost or mislaid shall afterwards be found, the same shall forthwith be delivered to the registering officer; and every person in or into whose possession any such ticket as last aforesaid shall be or come, who shall refuse or neglect for three days to deliver the same to the said registering officer, and also every person licensed under the authority of this Act, who shall use or wear the ticket granted to him after the writing thereon shall be obliterated, defaced or obscured, so that the same shall not be distinctly legible, shall, for every such offence, be liable to a penalty not exceeding twenty rupees.

24. Upon the expiration or other determination of any license granted to a driver under this Act, such driver shall deliver such license, and the ticket relating thereto, to the said registering officer; and every such driver who, after such expiration or determination as aforesaid, shall wilfully neglect for three days to deliver the same to the said officer, and also every person who shall use, or wear, or detain any ticket which shall have ceased to be in force, or other than such as shall have been delivered to him under the provisions of this Act, and every person to whom any ticket shall have been delivered as aforesaid, who shall lend such ticket to any other person, and every person who shall wear or use the ticket of any other person, shall, for every such offence, be liable to a penalty of twenty rupees, and in default of payment, to imprisonment for a period not exceeding one month. Penalty for neglecting to deliver up ticket, lending it, &c.

It shall be lawful for the registering officer, or for any person employed by him for that purpose, to prosecute any person so neglecting to deliver up his license or ticket, at any period within twelve calendar months after the expiration of the license.

25. Every person who shall, for the purpose of deception, use or wear or have any ticket resembling, or intended to resemble, any ticket granted under the authority of this Act, shall for every such offence be liable to a penalty not exceeding one hundred rupees. Penalty for using or having counterfeit ticket.

And it shall be lawful for any Police-officer, or any person employed for that purpose by the registering officer, to seize and take away any such ticket, or any ticket used for the purpose of deception as aforesaid, wheresoever the same may be found, and to deliver the same to the registering officer.

26. Whenever any driver shall be summoned to appear before any Magis- Penalty for

failing to produce.

trate to answer any charge preferred against him under this Act, he shall carry with him his license, and produce the same if required so to do; and any driver who shall on such requisition fail to produce such license shall for every such offence be liable to a fine not exceeding five rupees.

Conviction to be endorsed on driver's license.

It shall be lawful for any Magistrate, on conviction of any driver of any offence under this Act, to endorse on such license the nature of the offence, the date of the conviction, and the amount of the penalty inflicted.

Revocation or suspension of driver's license on conviction of offence.

27. It shall be lawful for any Magistrate before whom any driver shall be convicted of any offence, whether under this Act or under any other Act, to revoke the license of such driver, or to suspend the same for such time as the Magistrate shall think proper, and for that purpose to require the driver, or any other person in whose possession such license and the ticket thereto belonging shall then be, to deliver up the same; and every driver or other person who, being so required, shall refuse or neglect to deliver up such license and such ticket or either of them, shall be liable to a penalty not exceeding twenty rupees, so often as he shall be so required and refuse or neglect as aforesaid: and the Magistrate shall immediately send every license and every ticket delivered up to him under this section to the registering officer, who shall cancel such license if it has been revoked by the Magistrate, or, if it has been suspended, shall at the end of the time for which it shall have been suspended, re-deliver such license with the ticket (if it shall have come into the possession of the registering officer) to the person to whom it was granted.

Fares, Hiring, and Plying for Hire.

Fares for carriages of the second and third class.

28. The owner or driver of every hackney-carriage registered in the second or third class shall be entitled to demand and take for the hire of such carriage the fares set forth in the schedule (A) to this Act annexed:

Provided always, that when the owner or driver of any such hackney-carriage, to be paid a fare calculated according to the distance, shall be required by the hirer thereof to stop such carriage for any time or times amounting altogether to not less than fifteen minutes, it shall be lawful for the owner or driver to demand and receive from the hirer so requiring him to stop, a further sum (above the fare to which he shall be entitled, calculated according to the distance) of one-fourth of the rate for one hour, for every fifteen minutes that he shall have been so stopped; and no owner or driver shall demand or receive, over and above the said fare, any sum for back fare for the return of the carriage from the place at which it was discharged:

Provided, also, that nothing in this Act contained shall prevent any driver or owner from being bound by any contract into which he may enter, to receive payment at a rate lower than that fixed by this Act.

Owner to keep table of fares inside carriages of second and third class.

29. The owner of every hackney-carriage of the second or third class shall put up, and at all times keep distinctly printed, painted or marked in the English, Urdú and Bengálí languages, in such manner and in such position as shall be directed by the registering officer, on the inside of such carriage, the amount of fare according to distance and time which may legally be demanded and taken from the hirer of such carriage as a hackney-carriage; and the owner of every such carriage who shall fail to comply with the provision of this section, shall, for each offence, be liable, on conviction, to a fine not exceeding ten rupees.

To what distance and at what rate of speed driver bound to drive.

30. The driver of every carriage of the second and third class registered under this Act shall (unless he have a reasonable excuse to be allowed by the Magistrate before whom the matter shall be brought in question) drive such carriage to any place to which he shall be required by the hirer thereof to drive the same, not exceeding six miles from the place where the same shall have been hired.

Provided, always, that when any such carriage shall have been hired by time, the driver thereof shall drive the same at a rate not less than four miles within one hour, and if the driver of such carriage shall be required to drive more than four miles within one hour, then in every such case the driver thereof shall be entitled to demand, in addition to the fare regulated by time in schedule (A) to this Act annexed, for every mile or any part thereof exceeding four miles, the fare regulated by distance as set forth in the same schedule.

Any such driver who shall not drive his carriage at the rate required as aforesaid, except in cases of unavoidable delay, or who shall refuse or omit to drive the same to any place within the limits aforesaid to which he may be required to drive by the hirer, shall be liable to a penalty not exceeding ten rupees, or, in default, to rigorous imprisonment for a period not exceeding one month.

First and second class carriage to carry reasonable quantity of luggage.

31. The driver of every first and second class carriage registered under this Act, shall carry in or upon such carriage a reasonable quantity of luggage for every person hiring such carriage, without any additional charge.

Penalty for refusing to let carriage.

32. Any owner or person in charge of any hackney-carriage registered under this Act, who shall without sufficient reason refuse to let such carriage for hire, shall be liable on conviction to a fine not exceeding fifty rupees, and to pay such further sum by way of compensation to the party complaining as to the Magistrate who shall hear the case may seem just; and such further sum shall, in default of immediate payment, be levied in the mode provided for the levying of fines under this Act.

And when any such hackney-carriage shall be standing on any premises, which under this Act may have been declared to be a public stand, the owner of the said premises shall be deemed to be the person in charge of such hackney-carriage within the meaning of this section.

Penalty on driver for—

33. Every driver of a hackney-carriage—

drunkenness or misconduct,

who shall be drunk during his employment, or make use of insulting or abusive language or gesture; or

loitering,

who shall (elsewhere than at some stand or other place appointed for the purpose) stand or loiter, for the purpose of being hired, in or upon any public street, road or place; or

standing across street,

who shall suffer his carriage to stand for hire across any street, or alongside of any other carriage, or who shall refuse to give way (when he reasonably and conveniently may do so) to any other carriage; or

obstructing other driver,

who shall wilfully obstruct or hinder the driver of any other carriage in taking up or setting down any person into, or from, such other carriage; or

preventing hire of other carriage,

who shall wrongfully prevent, or endeavour to prevent, the driver of any other carriage from being hired; or

demanding more than fare, &c.,

who shall demand or take more than the proper fare to which he is legally entitled; or

refusing to carry proper number,

who shall refuse to admit and carry in his carriage the number of persons painted or marked on such carriage or specified in the register; or

carrying in excess,

who shall carry more than such number of passengers; or

refusing to carry luggage,

who shall refuse to carry by his carriage a reasonable quantity of luggage as provided for by this Act; or

deserting before discharge,

who, being hired by time, shall, before he has been discharged by the hirer, desert from the hiring; or

plying with unfit carriage.

who shall ply for hire with any carriage or horse which shall be at the time unfit for public use—

shall be liable to a penalty not exceeding ten rupees, and, in default of payment, to rigorous imprisonment for a period not exceeding one month.

Penalty on drivers absenting themselves.

34. Any driver employed as such by the owner of any carriage registered under this Act, who shall without sufficient excuse refuse or neglect to attend at the premises of such owner for the purpose of driving any such carriage, whereby such owner is prevented from letting out the same, shall, on complaint by such owner, be liable, for each offence, to a fine not exceeding ten rupees (which, or any part of which, may, by order of the Magistrate, be paid to the owner as compensation), and, in default of payment, to rigorous imprisonment for a term not exceeding one month.

Proprietors of carriages may be summoned

35. When a complaint is made before a Magistrate against the driver of a carriage registered under this Act, for any offence committed by him against

the provisions of this Act, such Magistrate may forthwith summon the owner of the carriage personally to appear, and to produce the driver of such carriage to answer the complaint. to appear and produce drivers.

If such owner, being duly summoned, shall, without a reasonable excuse, neglect or refuse personally to appear, or to produce the driver, according to such summons, he shall be liable to a penalty not exceeding fifty rupees, and so from time to time as often as he shall be so summoned, until such driver shall be produced by him.

Provided that, if such owner shall, without a reasonable excuse, neglect or refuse to appear and produce such driver on the second or any subsequent summons requiring him so to do, it shall be lawful for the Magistrate to proceed to hear and determine the complaint in the absence of the owner and driver or either of them.

36. If any person who shall have hired a carriage registered under this Act shall refuse to pay to the owner or driver thereof, on demand, the fare payable under this Act, it shall be lawful for the Magistrate who shall hear the case to order payment of such fare, and also of such compensation for loss of time as shall seem reasonable: and, in default of payment, such fare and compensation may be recovered in the same way as fines are recoverable under this Act: and if any hirer who shall have used any such carriage shall attempt to evade payment of his fare, he shall be liable, on conviction, to a fine not exceeding fifty rupees, or to imprisonment for a period not exceeding one month, in addition to the payment of such fare and compensation as hereinbefore mentioned. Penalty for refusing to pay legal fare and evading payment.

37. Any person who shall maliciously or knowingly tear, destroy or remove any table of fares which shall have been put up under the provisions of section 29 of this Act, shall be liable on conviction to a fine not exceeding twenty rupees, and any portion of such last-mentioned fine may be awarded to the owner of the hackney-carriage to which such table of fares shall have been affixed. Penalty for destroying, &c., table of fares.

38. Any person using a carriage registered under this Act, who shall wilfully injure the same, shall be liable on conviction to a fine not exceeding twenty rupees, and shall also pay to the owner of the carriage compensation for the injury. Penalty for wilful injury to carriage.

The amount of such compensation shall be determined by the convicting Magistrate, and may be recovered in the same way as fines are recoverable under this Act.

39. In case of any dispute between the hirer and driver of any hackney-carriage of the second or third class, registered under this Act, the hirer may, if any Magistrate be then sitting, require the driver to drive to the Court of such Magistrate; and if any driver shall refuse to obey such requisition, it shall be Disputes how settled.

lawful for the hirer to give such driver into the custody of the nearest Police-officer.

Such Police-officer shall thereupon take the driver and hirer, together with the carriage and horses, to such Court, and the then sitting Magistrate shall, in either of the cases aforesaid, hear and determine the dispute in a summary way.

Table of distances signed by registering officer conclusive.

40. In the case of disputes as to the fare to be calculated according to the distance, any table or book signed by the registering officer shall, on proof of such signature, be taken to be conclusive evidence of all the distances therein stated to have been ascertained by the said officer.

Second and third class carriages may ply as stage-carriages.

41. It shall be lawful for any hackney-carriage of the second or of the third class to ply for hire as a stage-carriage.

The owner or driver of a carriage so plying for hire, or hired as a stage-carriage, shall not be subject to the provisions of section 28 of this Act, but shall be entitled to demand and take for the hire of such carriage, such fares as shall be agreed upon between him and the several hirers respectively.

All the other provisions of this Act shall be applicable to the case of a hackney-carriage plying as a stage-carriage, so far as the same shall be applicable in each particular instance.

Stands to be fixed.

42. The registering officer shall from time to time appoint one or more stands in the town and suburbs of Calcutta for carriages registered under this Act, and may also assign for the use of such carriages, as public stands, any coach-houses or stables or sheds, or other suitable places.

Every public stand so appointed or assigned shall have a board affixed in a conspicuous place in front thereof, containing a notice in the English, Urdú and Bengálí languages, that the stand is a public stand under this Act.

Palankeens.

Registration of palankeens.

43. Every palankeen plying for hire within the town or suburbs of Calcutta shall be annually registered by the officer appointed for registering hackney-carriages, at the time and in the manner hereinbefore provided with respect to the registration of hackney-carriages; and upon each registration a fee of eight annas shall be paid:

Provided that the registering officer may refuse to register any palankeen, or may cancel the registration thereof, whenever it may appear to him to be unserviceable or unfit for public use.

Contents of register.

44. The following particulars shall be entered in the register, namely, the number of the palankeen, and the name and residence of the owner; and every change of ownership or residence shall be notified to the registering officer, subject to the same provisions and penalties in default as are provided in the case of the owners of hackney-carriages.

Number to be painted on palankeen.

45. The owner of every registered palankeen shall cause the registered number thereof to be painted in English and Bengálí figures on a conspicuous part thereof.

Penalty for neglecting to register, or omitting to number.

The owner of any palankeen plying for hire without being registered or having the number affixed thereto as aforesaid, shall be liable to a penalty not exceeding ten rupees.

The person in whose name a palankeen is for the time being registered, shall be deemed the owner thereof for the purposes of this Act.

Table of fares to be exhibited.

46. The owner of every palankeen shall put up, and at all times keep distinctly printed, painted or marked, in the English, Urdú and Bengálí languages, in such manner and in such position as shall be directed by the registering officer, on the inside of such palankeen, the amount of fare, according to distance and time, which may be legally demanded and taken from the hirer of such palankeen.

Fares for palankeens.

47. The owner or person in charge of every palankeen shall be entitled to demand and take for the hire of such palankeen the fares set forth in the schedule (B) to this Act annexed:

Provided that, when the owner or person in charge of any such palankeen, to be paid a fare calculated according to the distance, shall be required by the hirer thereof to stop such palankeen for fifteen minutes, or for any longer time, it shall be lawful for the owner or person in charge to demand and receive from the hirer so requiring him to stop a further sum (above the fare to which he shall be entitled, calculated according to the distance) of one-fourth of the rate for one hour, for every fifteen minutes that he shall have been so stopped; and no owner or person in charge shall demand or receive, over and above the said fare, any sum for back-hire for the return of the palankeen from the place at which it was discharged:

Provided also, that nothing in this Act contained shall prevent any owner or person in charge from being bound by any contract into which he may enter, to receive payment at a rate lower than that fixed by this Act.

Registry of palankeen-bearers, and provisions relating to them.

48. It shall not be lawful for any person to act as the bearer of a registered palankeen, unless such person shall have obtained a license from the registering officer in manner hereinbefore prescribed for drivers of hackney-carriages; and all the provisions of this Act in any way relating to the taking out, granting, renewing or producing the licenses, or to the issuing, granting, wearing or using tickets granted to drivers of hackney-carriages, shall be applicable in like manner to the bearers of palankeens.

For every license to act as a palankeen-bearer, granted under this Act, there shall be paid a fee of eight annas.

To what distance and at what rate of speed bearers of palankeen bound to go.

49. The bearers of every palankeen registered under this Act shall (unless they have a reasonable excuse to be allowed by the Magistrate before whom the matter shall be brought in question) carry such palankeen to any place to which they shall be required by the hirer thereof to carry the same, not exceeding five miles from the place where the same shall have been hired.

If such palankeen shall have been hired by time, the bearers thereof may be required to carry it at any rate not exceeding two and a half miles within one hour.

Whenever the bearers of such palankeen shall be required to carry it more than two and a half miles within one hour, they shall be entitled to demand, in addition to the fare regulated by time in the said schedule (B), for every mile or any part thereof exceeding two and a half miles, the fare regulated by distance as set forth in the same schedule.

All and every the provisions of this Act, as to offences committed by or against the owners and drivers of hackney-carriages, and the penalties in respect of the same and recovery thereof, and all the remedies by or against hirers, owners or drivers of hackney-carriages, and all and several the remedies given to hirers, owners and drivers of hackney-carriages, except the provision contained in section 35, shall be applicable, so far as the same may reasonably be applied, to the owners and bearers of palankeens.

MISCELLANEOUS.

Property left in carriages or palankeens to be deposited at Police-office.

50. The driver of every hackney-carriage and bearers of every palankeen within the limits of this Act, wherein any property shall be left by any person, shall, within twenty-four hours, carry such property, if not sooner claimed by the owner thereof, to the nearest Police-station, and shall there deposit and leave the same with the inspector or other officer on duty.

And any such driver or bearer making default herein, shall be liable to a penalty not exceeding fifty rupees.

And the said officer with whom any such property shall be deposited, shall forthwith enter in a book to be kept for that purpose, the description of such property, and the name and address of the driver or bearer who shall bring the same, and the day on which it shall be brought, and the property so entered shall be returned to the person who shall prove to the satisfaction of the Commissioner of Police that the same belonged to him, such person previously paying all expenses incurred, together with such reasonable sum to the driver or bearers who brought the same as the said Commissioner shall award.

Provided always that, if such property shall not be claimed by and proved to belong to some one within one year after the same shall have been deposited, the said Commissioner shall cause such property to be sold or otherwise dis-

posed of, and the proceeds, after deducting the expenses, together with a reasonable sum to the driver or bearers, shall be applied in the same manner as fees and penalties received under this Act.

Adjudication of penalties.

51. All complaints as to offences against this Act shall be heard and determined by a Magistrate within whose local jurisdiction the offence may be alleged to have been committed: and the provisions for the recovery of fines contained in section 307 of the Code of Criminal Procedure[a] shall apply to all fines and penalties imposed under this Act by any Magistrate in the suburbs of Calcutta or in any town or place to which this Act shall be extended as hereinafter provided; and the provisions of Act IV of 1866,[b] passed by the Lieutenant-Governor of Bengal in Council, entitled "the Calcutta Police Act, 1866," or any other Act for regulating the Police of the town of Calcutta in force for the time being, shall apply to all fines and penalties imposed under this Act by any Magistrate of Police for the town of Calcutta.

Disposal of penalties and fees.

All penalties and fees to be levied under this Act shall be disposed of in such manner as the Lieutenant-Governor of Bengal, from time to time, shall direct.

Amends for frivolous complaints.

52. In every case in which any complaint of any offence under this Act shall be laid or made before any Magistrate and shall not be further prosecuted, or in which, if further prosecuted, it shall appear to the Magistrate by whom the case shall be heard that there was no sufficient ground for making the complaint, the Magistrate shall have power to award such amends, not exceeding twenty rupees, to be paid by the complainant to the person complained against, or to the owner of a carriage, if summoned under section 35 of this Act, or to both, for their loss of time and expenses in the matter, as to the Magistrate shall seem meet.

Such amends shall be recoverable in the manner provided for levying fines under this Act.

Interpretation.

53. The following words and expressions in this Act shall have the meanings hereby assigned to them, unless there be something in the subject or context repugnant to such construction (that is to say)—

"Magistrate."

the word "Magistrate" in this Act shall mean any Magistrate of Police for the town of Calcutta, and any person lawfully exercising the full powers of a Magistrate in the suburbs of the said town or in any town or place to which this Act shall be extended, as hereinafter provided, and any assistant to a Magistrate or Deputy Magistrate specially authorized by Government to exer-

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[a] Act No. X of 1872, sch. v. [b] See *supra*, p. 526.

cise in the said suburbs, town or place, the powers vested by this Act in a Magistrate :

"Hackney-carriage." the words "hackney-carriage" in this Act shall mean any carriage used or intended to be used for conveying passengers for hire from any place in the town of Calcutta or the suburbs thereof :

Provided always that the term "hackney-carriage" shall not include any carriage used wholly upon any railway :

"Stage-carriage." the words "stage-carriage" in this Act shall mean any hackney-carriage, the passengers in which shall be charged, or shall pay, separate and distinct fares, or shall be charged, or pay, at the rate of separate and distinct fares, for their respective places or seats therein, or conveyance thereby :

"Horse." the term "horse" shall include mules and ponies :

Number. words importing the singular number shall include the plural number, and words importing the plural number shall include the singular number :

Gender. words importing the masculine gender shall include the feminine.

Power to extend Act. **54.** It shall be lawful for the Lieutenant-Governor of Bengal, by a notification to be published in the *Calcutta Gazette*, to extend the provisions of this Act to any other towns or places within the Provinces under his control.[a]

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[a] The Act has been extended to Howrah, Serampur, Hugli, Chinsurah, Baidyabáti, Burdwan, Surí, Barrackpur, Dinapur and Munger.

SCHEDULE (A).—*(Referred to in section 28).*

Rates and Fares to be paid for Hackney-carriages of the Second and Third Classes.

Description of Carriage.	Fare by Distance.		Fare by Time.			
	For any distance within and not exceeding one mile.	For any distance exceeding one mile.	For any time within and not exceeding one hour.	For every hour or part of an hour beyond one hour.	For half a day, or five hours.	For a whole day consisting of nine hours.
Second Class ...	6 Annas ...	After the rate of 4 annas for every mile and for any part of a mile over and above any number of miles completed.	12 Annas ...	6 Annas ...	2 Rupees ...	3 Rupees.
Third Class ...	3 Annas ...	After the rate of 2 annas for every mile and for any part of a mile over and above any number of miles completed.	6 Annas ...	3 Annas ...	1 Rupee ...	1 Rupee 8 annas.

The above fares to be paid according to distance or time, at the option of the hirer, to be expressed at the commencement of the hiring; if not otherwise expressed, the fare to be paid according to time.

SCHEDULE (B).—(*Referred to in section 47*).

Rates and Fares to be paid for Palankeens.

Fare by Distance.		Fare by Time.			
For any distance within and not exceeding one mile.	For any distance exceeding one mile.	For any time within and not exceeding one hour.	For every hour or part of an hour beyond one hour.	For half a day, or five hours.	For a whole day consisting of nine hours.
3 Annas	After the rate of 3 annas for every mile and for any part of a mile over and above any number of miles completed.	6 Annas	3 Annas	1 Rupee	1 Rupee 8 annas.

The above fares to be paid according to distance or time, at the option of the hirer, to be expressed at the commencement of the hiring; if not otherwise expressed, the fare to be paid according to time.

ACT No. VII of 1866.

Received the Lieutenant-Governor's assent on the 14th of April 1866, and the Governor General's assent on the 30th idem.

An Act to make better provision for the acquisition of land for embankments, and other matters relating thereto.[a]

Preamble.

WHEREAS it is expedient to make better provision for the acquisition of land required for embankments, and for charging the expense thereof upon the owners of lands benefited thereby; Be it enacted:—

Lands for embankments may be acquired under powers for acquiring land for public purposes.

1. When it shall be necessary for any Collector to acquire land for the purpose of constructing any public embankment, or of extending or altering any embankment, the superintendence or charge whereof is vested in an officer of Government, the provisions of the Land Acquisition Act, 1870,[b] and of any other Act for the time being in force relating to the acquisition of land for public purposes, shall extend and apply to the acquisition of such land for the purpose aforesaid, so far as the same shall be applicable, and such Collector shall and may take and acquire such land, and assess compensation for the same, and do all other acts necessary for the acquisition thereof, by and under the powers and provisions of such Act or Acts so far as the same is or are applicable in that behalf; but no such declarations or orders by or on behalf of Government as are mentioned in sections 6 and 7 of the said Land Acquisition Act, 1870,[c] shall be necessary or required.

Any person to whom compensation has been awarded in respect of lands taken, shall be entitled to receive the same together with interest after the rate of six per centum per annum from the time when the land was taken:

Provided that notwithstanding any thing contained in section 7, clause 1, of Act XXXII of 1855[d] passed by the Governor General of India in Council, entitled "An Act relating to embankments," it shall not be obligatory upon the Collector to pay to any person, nor shall any person have a right to a civil suit for the recovery of, any money in respect of compensation for lands taken, where the same is payable as hereinafter provided by the persons whose lands are benefited, until and unless the Collector shall have received the same from such person.

Charging cost of land acquired, where

2. In cases where lands the property of different owners will, in the opinion of the Collector, derive benefit from the construction, alteration or exten-

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[a] Repealed, except so far as relates to Orissa and the Sundarbans, by Bengal Act No. VI of 1873.

[b, c] See Act No. X of 1870, section 2, clause 2.

[d] See *supra*, p. 290.

lands of different owners benefited.

sion of any public embankment, and it is necessary to acquire land for the purpose of such construction, alteration or extension, it shall be lawful for such Collector to charge the cost of such land and the expense attending its acquisition upon the persons so deriving such benefit, in such proportions as in his opinion shall be equivalent to the benefit derived by their lands respectively.

Before assessing such contribution, the Collector shall cause a notice to be served on each of such persons, in which it shall be stated what land is being taken, and the purpose for which it is required, and that the lands of such person will derive benefit from the execution of the works, and giving him notice that an inquiry will be held, at a day and place to be named, for the purpose of apportioning amongst the persons whose lands will be benefited by the intended works, the cost of the land and the expense of acquiring it.

In case such person does not reside within the district in which his lands are situate, the notice may be served upon his agent, or if he has no agent therein, it will be sufficient to affix the notice upon some conspicuous part of his estate.

Mode of inquiry as to proportion chargeable to each estate.

3. On the day fixed in the notice, which shall not be less than one month later than the date of service of such notice, the Collector shall proceed to make the necessary inquiry for the determination of the proportion in which the estates affected by the construction, extension or alteration of the embankment will be benefited thereby.

In making this inquiry he shall receive such evidence as may be tendered by or on behalf of the owners of estates which may appear likely to be benefited by the construction, extension or alteration of the embankment as aforesaid, and by and on behalf of any other persons who may claim to be interested in the said inquiry, and he may make or cause to be made such local investigation, and call for such documents, and examine such witnesses, as he may think necessary; and all the provisions of the law for the time being in force in regard to the examination of witnesses and production of documents in judicial proceedings, shall be applicable to inquiries conducted by the Collector under this Act.

Power to make award stating names of owners of lands benefited and proportion of cost payable.

4. The Collector shall and may after such inquiry make an award, in which he shall find and state the names of the persons whose lands will be or are benefited by the construction, alteration or extension of such embankment, and the proportion of the cost of the land and the expense of its acquisition (including therein the cost of the said inquiry) which they ought respectively to bear.

No appeal from award:

No appeal shall lie from the award of the Collector.

but one owner may recover from another not assessed or under-assessed.

But it shall be competent to the owner of any land assessed to a larger amount than his fair proportion, to recover such excess in the civil Court, from the owner of any land or estate benefited thereby upon whom no assessment has been made or a smaller amount has been assessed than ought to have been awarded against him:

Provided that in such suit no more shall be recovered from any person than the amount to which he ought to have been assessed where he has not been required to contribute, or the amount by which the sum he was required to pay was less than his fair proportion where he has been required to contribute.

Expenses included in cost of acquiring land.

5. There shall be included in the expense of acquiring the land so to be distributed amongst the persons benefited, not only the compensation awarded to the owner of the land taken, including interest at the rate of six per centum per annum from the time when the land was taken, but also the cost of surveys and plans, of notices, of the said inquiry and award, and all other costs, charges and expenses incident to obtaining possession of such land.

The amount so awarded shall and may be recovered from the person so required to pay the same, in the same way and by the same means as arrears of Government revenue.

Expense of sluice apportioned where lands of different owners benefited.

6. When application has been made to the Collector under section 8 of the said Act XXXII of 1855 [a], for the construction of a sluice in any public embankment, and in the opinion of the Collector lands the property of other persons as well as of the person making the application will be benefited by the construction of the sluice, the expense of such construction may be assessed upon and recovered from such persons in such shares or proportions as shall, in the opinion of the Collector, be equivalent to the benefit derived by their lands respectively.

Provided, nevertheless, that notice in writing shall be served on all such persons, stating that it is proposed to make such sluice, the probable expense thereof, and that an inquiry will be held at a place and hour specified, for the purpose of apportioning the expense of such construction among the persons to be benefited thereby, and that such person is supposed to be likely to be benefited thereby.

And such notice may be served, and such inquiry shall be held, and such award shall be made, subject to the same rules, powers and provisoes in all respects as is hereinbefore provided in the case of the apportionment of the cost of land required for embankments.

And the said award shall be final: but a civil suit may be brought to

[a] See *supra*, p. 290.

recover any excess with which any such person may be charged, from persons who ought to have been charged, but have not been charged with any portion of the expense, or against whom less has been awarded than their fair proportion, as hereinbefore provided with respect to the apportionment of the cost of land.

Disposal of lands no longer required for embankments.

7. Whenever, in consequence of the construction or alteration of any public embankment, the maintenance of any other public embankment, or the retention of any land appropriated to the purposes thereof, may no longer be required, and the permanent relinquishment of the same may be deemed expedient by the officer in charge of the embankments, it shall be lawful for the Collector to dispose of the site of the embankment, or of the land so abandoned, by public sale; and all the provisions of the law for the time being in force in regard to sales of land in default of payment of the Government revenue, shall be applicable, so far as the same may be reasonably applied, to sales under the provisions of this section.

The proceeds of such sales shall, after the payment of all expenses incurred on account of the same, be applied to the payment of the cost of the new land taken up for embankment-purposes, and in such case the residue only of the cost of such new land shall be apportioned among the owners of lands benefited as hereinbefore provided.

Provided that it shall not be competent to the Collector to sell in the manner aforesaid any land which shall not have been taken up for embankment-purposes under the provisions of this Act.

Collector may delegate powers to Deputy Collector.

8. A Collector may delegate any of his powers under this Act to a Deputy Collector, but from any order passed by a Deputy Collector to whom powers have been so delegated, an appeal shall lie to the Collector, if presented within fifteen days of the date of the order.

Act does not apply where obligation to provide land exists.

9. Nothing in this Act shall be held to exempt any person from the obligation of giving land gratuitously, or of paying for land taken up for the purpose of public embankments, where such obligation exists by any law or custom.

Interpretation.

10. The following words and expressions shall have the several meanings hereby assigned to them, unless where a contrary intention appears from the context:—

Number.

words in the singular number shall include the plural, and words in the plural shall include the singular:

Gender.

words importing the masculine gender shall include females:

"Collector."

the word "Collector" shall include any officer exercising, by authority of Government, the duties of a Collector of land-revenue, by whatever name his office may be designated:

the word "owner" shall include zamíndárs, holders of patní tenures or of any rent-free tenure, dependent taluqdárs, Sundarban grantees and farmers or holders of tenures paying revenue direct to Government. "Owner."

ACT No. II of 1867.

Received the Lieutenant-Governor's assent on the 20th of March 1867, and the Governor General's assent on the 1st of April 1867.

An Act to provide for the punishment of public gambling and the keeping of common gaming-houses in the territories subject to the Lieutenant-Governor of Bengal.

Whereas it is expedient to make provision for the punishment of public gambling and the keeping of common gaming-houses in the territories subject to the Lieutenant-Governor of Bengal; It is enacted as follows:— Preamble.

1. In this Act—"common gaming-house" means any house, tent, room, space or walled enclosure, in which cards, dice, tables or other instruments of gaming are kept or used for the profit or gain of the person owning, occupying, using or keeping such house, tent, room, space or enclosure, whether by way of charge for the use of the instruments of gaming or of the house, enclosure, room or place, or otherwise howsoever: Interpretation-clause. "Common gaming-house."

words importing the masculine gender shall include the feminine: Gender.

words importing the singular number shall include the plural, and words importing the plural number shall include the singular. Number.

2. It shall be competent to the Lieutenant-Governor of Bengal, whenever he may think fit to extend, by a notification to be published in three successive numbers of the *Calcutta Gazette*, all or any of the sections of this Act, to any city, town (save the town of Calcutta as defined by Act VI of 1863[a] passed by the Lieutenant-Governor of Bengal in Council), or place within the territories subject to his government, and in such notification to define, for the purposes of this Act, the limits of such city, town or place, and from time to time to alter the limits so defined. Power to extend Act.

3. Whoever, being the owner or occupier, or having the use of any house, tent, room, space or walled enclosure, situate within the limits to which this Act applies, opens, keeps or uses the same as a common gaming-house; and whoever, being the owner or occupier of any such house, tent, room, space or Penalty for owning or keeping, or having charge of, gaming-house.

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[a] Repealed by Bengal Act No. IV of 1876.

walled enclosure, as aforesaid, knowingly or wilfully permits the same to be opened, occupied, used or kept by any other person as a common gaming-house; and whoever has the care or management of, or in any manner assists in conducting, the business of any house, tent, room, space or walled enclosure, as aforesaid, opened, occupied, used or kept for the purpose aforesaid; and whoever advances or furnishes money for the purpose of gaming with persons frequenting such house, tent, room, space or walled enclosure, shall be liable, on conviction before any Magistrate, to a fine not exceeding two hundred rupees, or to imprisonment of either description, as defined in the Indian Penal Code, for any term not exceeding three months.

Penalty for being found in gaming-house.

4. Whoever is found in any such house, tent, room, space or walled enclosure, playing or gaming with cards, dice, counters, money or other instruments of gaming, or is found there present for the purpose of gaming, whether playing for any money, wager, stake or otherwise, shall be liable, on conviction before any Magistrate, to a fine not exceeding one hundred rupees, or to imprisonment of either description as defined in the Indian Penal Code, for any term not exceeding one month; and any person found in any common gaming-house during any gaming or playing therein, shall be presumed, until the contrary be proved, to have been there for the purpose of gaming.

Power to enter and authorize Police to enter and search.

5. If the Magistrate of a district, or other officer invested with the full powers of a Magistrate, or the District Superintendent of Police, upon credible information, and after such enquiry as he may think necessary, has reason to believe that any house, tent, room, space or walled enclosure is used as a common gaming-house,

he may either himself enter, or by his warrant authorize any officer of Police, not below such rank as the Lieutenant-Governor shall appoint in this behalf, to enter, with such assistance as may be found necessary, by night or by day, and by force if necessary, any such house, tent, room, space or walled enclosure, and may either himself take into custody, or authorize such officer to take into custody, all persons whom he or such officer finds therein, whether or not such persons may be then actually gaming;

and may seize or authorize such officer to seize all instruments of gaming, and all moneys and securities for money, and articles of value, reasonably suspected to have been used or intended to be used for the purpose of gaming, which are found therein;

and may search or authorize such officer to search all parts of the house, tent, room, space or walled enclosure which he or such officer shall have so entered, when he or such officer has reason to believe that any instruments of gaming are concealed therein, and also the persons of those whom he or such officer so takes into custody;

and may seize or authorize such officer to seize and take possession of all instruments of gaming found upon such search.

Finding cards, &c., in suspected houses to be evidence that they are common gaming-houses.

6. When any cards, dice, gaming-table, cloth, boards or other instruments of gaming are found in any house, tent, room, space or walled enclosure entered or searched under the provisions of the last preceding section, or about the person of any of those who are found therein, it shall be evidence, until the contrary is made to appear, that such house, tent, room, space or walled enclosure is used as a common gaming-house, and that the persons found therein were there present for the purpose of gaming, although no play was actually seen by the Magistrate or Police-officer, or by any person acting under the authority of either of them.

Penalty on persons arrested for giving false names and addresses.

7. If any person found in any common gaming-house entered by any Magistrate or officer of Police under the provisions of this Act, upon being arrested by any such officer, or upon being brought before any Magistrate, on being required by such officer or Magistrate to give his name and address, shall refuse or neglect to give the same, or shall give any false name or address, he may, upon conviction before the same or any other Magistrate, be adjudged to pay any penalty not exceeding five hundred rupees, together with such costs as to such Magistrate shall appear reasonable, and on the non-payment of such penalty and costs, or in the first instance if to such Magistrate it shall seem fit, may be imprisoned for any period not exceeding one month.

On conviction for keeping gaming-house, instruments of gaming to be destroyed.

8. On conviction of any person for keeping or using any such common gaming-house, or being present therein for the purpose of gaming, the convicting Magistrate may order all the instruments of gaming found therein to be destroyed, and may also order all or any of the securities for money, and other articles seized, not being instruments of gaming, to be sold and converted into money, and the proceeds thereof with all moneys seized therein to be forfeited; or, in his discretion, may order any part thereof to be returned to the persons appearing to have been severally thereunto entitled.

Proof of playing for stakes unnecessary.

9. It shall not be necessary, in order to convict any person of keeping a common gaming-house, or of being concerned in the management of any common gaming-house, to prove that any person found playing therein at any game was playing for any money, wager or stake.

Act not to apply to certain games.

10. Nothing in the foregoing provisions of this Act contained, shall be held to apply to billiards, whist or any other game of mere skill wherever played.

Gaming and setting birds and animals to fight in public streets.

11. A Police-officer may apprehend without warrant any person found playing for money or other valuable thing with cards, dice, counters or other instruments of gaming, used in playing any game not being a game of mere

skill, in any public market, fair, street, place or thoroughfare situated within the limits aforesaid, or any person setting any birds or animals to fight in any public market, fair, street, place or thoroughfare situated within the limits aforesaid, or any person there present aiding and abetting such public fighting of birds and animals.

Such person, when apprehended, shall be brought without delay before a Magistrate, and shall be liable to a fine not exceeding fifty rupees, or to imprisonment, either simple or rigorous, for any term not exceeding one calendar month, and such Police-officer may seize all birds and animals and instruments of gaming found in such public place or on the person of those whom he shall so arrest, and the Magistrate may, on conviction of the offender, order such instruments to be forthwith destroyed, and such birds and animals to be sold.

Destruction of instruments of gaming.

Offences by whom triable.

12. Offences punishable under this Act shall be triable by any Magistrate having jurisdiction in the place where the offence is committed.

But such Magistrate shall be restrained within the limits of his jurisdiction under the Code of Criminal Procedure as to the amount of fine or imprisonment he may inflict.

Penalty for subsequent offence.

13. Whoever, having been convicted of an offence punishable under this Act, shall be guilty of any such offence, shall be subject for every such subsequent offence to double the amount of punishment to which he would otherwise have been liable for the same :

Provided that he shall not be liable in any case to a fine exceeding six hundred rupees, or to imprisonment for a term exceeding one year.

Recovery and application of fines.

14. The provisions for the recovery of fines contained in sections 64, 65, 66 and 67 of the Indian Penal Code and section 307 [a] of the Code of Criminal Procedure, shall apply to all fines and penalties imposed under this Act in any town or place other than the town of Calcutta ; and such fines shall (subject to the provisions contained in the last preceding section) be applied as the said Lieutenant-Governor shall from time to time direct.

And the provisions of Act IV of 1866 [b] passed by the Lieutenant-Governor of Bengal in Council, and of every other Act for regulating the Police of the town of Calcutta for the time being in force, shall apply to all fines and penalties imposed under this Act by any Magistrate of Police for the town of Calcutta.

Offences under Act.

15. Any thing made punishable by this Act shall be deemed to be an "offence" within the meaning of the Indian Penal Code.

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[a] See Act No. X of 1872, sch. V.

[b] See *supra*, p. 526.

Certain sections to apply without extension.

16. The provisions of sections 7 and 11 of this Act shall, from and after the passing of this Act, apply to the town of Calcutta, and to the suburbs of the town of Calcutta, as the same may be from time to time defined by any notification published by the Lieutenant-Governor in pursuance of Act II of 1866 [a] passed by the Lieutenant-Governor of Bengal in Council; and the provisions of section 13 of this Act shall, from and after the passing of this Act, apply to the whole of the said territories.

Immediate and prospective repeal of sections of Acts II and IV of 1866, B. C.

17. From and after the passing of this Act the provisions of section 32 of Act II of 1866 [b] passed by the Lieutenant-Governor of Bengal in Council, and of section 52 of Act IV of 1866 [c] passed by the same authority, shall stand and be repealed; and from and after any extension of this Act to the suburbs of the town of Calcutta, the provisions of sections 25, 26, 27, 28, 29 and 30 of the said Act II of 1866 [d] shall stand and be repealed.

ACT No. III OF 1867.

Received the Lieutenant-Governor's assent on the 20th of March 1867, and the Governor General's assent on the 30th of April 1867.

An Act to amend the law relating to ships lying in ports in the Provinces under the control of the Lieutenant-Governor of Bengal.

Preamble.

WHEREAS it is expedient to amend the law relating to merchant-ships lying in ports in the Provinces under the control of the Lieutenant-Governor of Bengal; It is enacted as follows :—

Interpretation.

1. The following words and expressions for the purposes of this Act have the meanings hereby assigned to them, unless where a contrary intention appears from the context, that is to say—

"Master."

the word "master" denotes any person having temporary or permanent command or charge of any vessel otherwise than in the capacity of pilot or harbour-master:

"Owner."

the word "owner" includes any agent acting for and on behalf of the owner of a ship at the port at which such ship shall lie or be:

"Port."

the word "port" denotes any port within the Provinces aforesaid, subject to the provisions of the Indian Ports Act, 1875 : [e]

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a, b, d See *supra*, p. 511. c See *supra*, p. 526.

e See Act No. XII of 1875, section 3, clause 3.

"Magistrate." the word "Magistrate" includes any officer exercising any of the powers of a Magistrate under the Code of Criminal Procedure, and any Magistrate of Police for the town of Calcutta:

"Municipal town." the expression "municipal town" denotes the town of Calcutta and every town, suburb, station, bázár, village and tract of country to which the provisions of Act III of 1864[a] (*the District Municipal Improvement Act*) passed by the Lieutenant-Governor of Bengal in Council have been or shall be extended:

Number. words importing the singular number include the plural, and words importing the plural number include the singular.

Penalty for not having sufficient crew on vessels lying in port. **2.** If any vessel of more than ten tons' burden shall, without such license as hereinafter is mentioned, be afloat in any port within the Provinces under the control of the Lieutenant-Governor of Bengal, without having on board thereof a crew of not less than the number set forth in the first schedule hereto, the master of such vessel, and in case there shall be no master of such vessel, then the owner thereof, shall be punished with a fine not exceeding five hundred rupees.

Power to exempt from maintaining crew on particular ships. **3.** Whenever it shall appear to the conservator of any port that any vessel in such port may, without danger to other vessels in such port, be afloat without such crew as hereinbefore is mentioned being maintained thereon, it shall be lawful to such conservator, if he shall think fit, to grant under his hand a license in the form A in the second schedule hereto, which license may be made determinable on the breach of any conditions therein contained; and during the continuauce of such license, the provisions of section 2 of this Act shall not apply to such vessel.

Power to revoke exemption. **4.** It shall be lawful for such conservator, by any writing under his hand in the form B in the second schedule hereto, to revoke such license; and from and after the publication of such revocation, by posting a copy thereof upon some conspicuous part of such vessel, the provisions of section 2 of this Act shall apply to such vessel and to the master and owner thereof, as if no such license had ever been granted.

Power to make order with respect to portions of ports. **5.** Whenever it shall appear to the conservator of any port that any creek, river or dock is so situate that vessels without any crew therein may remain afloat in such creek, river or dock, without danger to any vessels in any part of such port, it shall be lawful for such conservator to make an order in the form C in the second schedule hereto, and from time to time, if he shall think fit, to revoke or amend such order.

Provided always, that every such order, amendment and revocation shall

[a] Repealed by Bengal Act No. V of 1876.

be published in the *Calcutta Gazette*, and that no such order, amendment or revocation shall have any force or effect until it shall have been so published.

Application of section 2 to certain ships.

6. During such time as any such order shall remain in force, the provisions of section 2 of this Act shall not apply to any vessel lying or being within the limits of any such creek, river or dock, as the same shall be defined by such order.

7.—[*Repealed by Act No. XII of 1875.*]

Power to charge port-police upon port-fund.

8. It shall be lawful for the Lieutenant-Governor of Bengal to order (if and when he shall in his discretion think fit) that the entire or any portion of the expense of maintaining the Police-force in any port which may be within or abutting upon any municipal town shall be borne by and paid out of the port-fund of such port.

Power to charge upon port-fund portion of expense of municipal Police.

9. It shall be lawful for the Lieutenant-Governor of Bengal, from time to time, to assign to the persons charged with the management of the municipal fund of any municipal town upon which any port may be abutting, or within which any port may be, such annual sums to be charged upon and payable out of the port-fund of such port as to him shall seem just and reasonable for or towards reimbursing to such municipal fund such portion of the expense of the Police-force in such town as may, in the opinion of the said Lieutenant-Governor of Bengal, be rendered necessary by the resort to such town of seamen from ships lying or being in such port.

Power to impose Police-port-dues.

10. In case the port-fund of any port shall, after providing for the payment of all sums and charges now by law payable out of such port-fund, be insufficient to pay any expense of Police and annual sums which shall, under the provisions aforesaid, be payable thereout, it shall be lawful for the said Lieutenant-Governor of Bengal, and he is hereby required, to order that there shall be paid, in addition to all port-dues and charges payable in respect of any ship from time to time lying or being in such port, such port-dues, to be called Police-port-dues, as shall thereunto be necessary.

Provided that the same shall not exceed the port-dues in that behalf mentioned in the third schedule to this Act.

11, 12, 13.—[*Repealed by Act No. XII of 1875.*]

Power to compound port-dues.

14. It shall be lawful for the owner of any vessel to pay to the conservator of any port three times the amount of the Police-port-dues and hospital-port-dues which would, for the time being, be payable in respect of such vessel, and thereby to discharge such vessel from all further Police-port-dues and hospital-port-dues in such port for the space of twelve calendar months from the day of the date of such payment.

Power to vary port-dues.

15. It shall be lawful for the Lieutenant-Governor of Bengal, from time to time, to vary the rate of Police-port-dues and hospital-port-dues payable in

any port, as to him in his discretion shall seem fit, so as that the same shall not exceed the rates in the third schedule respectively set forth.

Imposition or increase of port-dues to be published.

16. No order of the Lieutenant-Governor of Bengal, imposing or increasing any port-dues under this Act, shall take effect until the expiration of six calendar months from the day upon which such order shall have been published in the *Calcutta Gazette*.

Recovery of penalties.

17. All complaints as to offences against this Act shall be heard and determined by a Magistrate within whose local jurisdiction the offence may be alleged to have been committed: and the provisions for the recovery of fines contained in sections 64, 65, 66 and 67 of Act XLV of 1860 (*the Indian Penal Code*) and in section 307 [a] of the Code of Criminal Procedure shall apply to all fines and penalties imposed under this Act by any Magistrate in any port other than the port of Calcutta; and the provisions of Act IV of 1866 [b] passed by the Lieutenant-Governor of Bengal in Council, and every other Act for regulating the Police of the town of Calcutta in force for the time being, shall apply to all fines and penalties imposed under this Act by any Magistrate of Police for the town of Calcutta.

Penalties how disposed of.

18. All penalties levied under this Act shall be applied as fines received under the said Indian Ports Act, 1875 [c] are directed to be applied.

Construction.

19. This Act shall be construed together with and as part of the said Indian Ports Act, 1875.[d]

FIRST SCHEDULE.—(*referred to in section 2*).

	If Natives..	If Europeans.	Officers in charge.
Cargo-boats	4	4	0
Vessels, not being cargo-boats, of 600 tons and under, in moorings	6	4	1
For every additional 100 tons	1½	1	0
Vessels, not being cargo-boats, of 600 tons and under, in stream	11	7½	1
For every additional 100 tons	2	1	0

[a] See Act No. X of 1872, sch. V.

[b] See *supra*, p. 526.

[c, d] See Act No. XII of 1875, section 3, clause 3.

SECOND SCHEDULE.—(*referred to in sections 3, 4 and 5*).

FORM A.

Port of ( )

I ( ) Conservator of the Port of

do hereby license the (*ship*) . of which is master, to remain at her present moorings, in the said port, without having on board the crew required by Act III of 1867 of the Lieutenant-Governor of Bengal in Council: Provided always that, on breach of any of the conditions hereunder written, this license shall forthwith absolutely cease and determine.

FORM B.

Port of ( )

I ( ) Conservator of the Port of

do hereby revoke all license to the (*ship*) to remain in port without a crew therein.

FORM C.

Port of ( )

I ( ) the Conservator of the Port of ,

do hereby order that vessels lying in the following portion of the said port (*here set out the exempted limits*) shall be exempt from the provisions of the second section of Act III of 1867 passed by the Lieutenant-Governor of Bengal in Council.

THIRD SCHEDULE.—(*referred to in sections 10, 11 and 15*).

PORT-DUES.

Police-port-dues.

For every vessel entering any port, two annas per ton.

Hospital-port-dues.

For every vessel entering any port, one anna per ton.

ACT No. IV of 1867.

[Received the Lieutenant-Governor's assent on the 30th of April 1867, and the Governor General's assent on the 21st of May 1867.

An Act to explain and amend Act VI of 1862 passed by the Lieutenant-Governor of Bengal in Council, and to give validity to certain judgments.[a]

Preamble.

WHEREAS certain appeals under Act X of 1859 [b] of the Governor General of India in Council, entitled an Act to amend the law relating to the recovery of rent in the Presidency of Fort William in Bengal, and under Act VI of 1862 [c] passed by the Lieutenant-Governor of Bengal in Council, entitled an Act to amend Act X of 1859,[d] have been referred to Deputy Collectors by Collectors under the belief that power so to refer such appeals is conferred by section 19 of the said Act VI of 1862;[e] and whereas some of the said appeals so referred have been heard and determined by such Deputy Collectors; and whereas certain appeals have been heard and determined by Deputy Collectors placed in charge of sub-divisions of districts under the belief that they had power to hear and determine such appeals; and whereas it is expedient that the judgments passed by such Deputy Collectors on such appeals should be made valid, and that provision should be made for the more speedy determination of appeals in certain cases; It is hereby declared and enacted as follows:—

Interpretation.

1. Words importing the singular number shall include the plural, and words importing the plural number shall include the singular.

Prior orders by Deputy Collectors on referred appeals confirmed.

2. Save as hereinafter appears, every judgment, decree and order, before the passing of this Act passed or made on any appeal by any Deputy Collector to whom such appeal may have been referred by the Collector having jurisdiction to decide such appeal, shall be as valid and binding and have the same force and effect as if the same had been passed or made by such Collector.

Prior orders by Deputy Collectors in charge of sub-divisions on certain appeals confirmed.

3. Save as hereinafter appears, every judgment, decree and order, before the passing of this Act passed or made by any Deputy Collector placed in charge of any sub-division of a district, upon any appeal from any judgment, decree or order made under the said Act X of 1859,[f] or the said Act VI of 1862,[g] by any officer within such sub-division, shall be as valid and binding as if such judgment, decree or order of such Deputy Collector had been made by the Collector of the district within which such sub-division is situate.

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a Repealed by Bengal Act No. VIII of 1869, section 107, in districts in which that Act is in operation. See also section 108.

b, d, f See *supra*, p. 356.

c, e, g See *supra*, p. 463.

4. Provided always, that in case any appeal upon which a judgment, decree or order may have been passed or made by any Deputy Collector, shall, before the passing of this Act, have been reheard by a Collector, the judgment, decree or order of such Deputy Collector upon such appeal shall not become valid or binding under or by virtue of anything hereinbefore contained. Proviso when appeals reheard by Collector.

5. From and after the passing of this Act, it shall be competent to the Lieutenant-Governor of Bengal specially to appoint any fully qualified revenue-officer to exercise the powers of the Collector of a district for the purpose of enabling him to hear and determine appeals under the said recited Acts, and such persons so specially appointed shall have and exercise all such and the same powers in regard to the hearing of such appeals as the Collector of the district within which such person shall be so appointed might have and exercise. Appellate jurisdiction exerciseable by officers specially appointed by Lieutenant-Governor.

ACT No. V of 1867.

Received the Lieutenant-Governor's assent on the 23rd of May 1867, and the Governor General's assent on the 30th idem.

An Act for shortening the language used in Acts passed by the Lieutenant-Governor of Bengal in Council.

Whereas certain provisions are commonly inserted in Acts passed by the Lieutenant-Governor of Bengal in Council for the interpretation of such Acts, and it is expedient to avoid the frequent repetition of such provisions; It is declared and enacted as follows:— Preamble.

1. In all Acts passed after the commencement of this Act, and containing nothing expressly to the contrary, Interpretation of certain words in future Acts.

words importing the masculine gender shall be deemed and taken to include females, and

the singular to include the plural, and the plural the singular;

the word "Magistrate" shall include all persons exercising all or any of the powers of a Magistrate;

the word "person" shall include any incorporated company or incorporated association of persons;

the word "month" shall be taken to mean calendar month, unless words be added showing lunar month to be intended;

the word "land" shall include houses and buildings and corporeal hereditaments and tenements of any tenure, unless where there are words to

exclude houses and buildings, or to restrict the meaning to tenements of some particular tenure; and

the words "oath," "swear" and "affidavit" shall include affirmation, declaration, affirming and declaring, in the case of persons by law allowed to declare or affirm instead of swearing.

Repealed Acts not revived.

2. Wherever any Act shall, after the time fixed for the commencement of this Act, be passed repealing in whole or in part any former Act or Regulation, and such Act shall itself be repealed, such last repeal shall not revive the Act or Regulation or provisions before repealed, unless words be added reviving such Act, Regulation or provisions.

Repealed provisions to continue in force till substituted provisions come into operation.

3. Wherever any Act shall, after the time fixed for the commencement of this Act, be passed repealing in whole or in part any former Act, and substituting some provision or provisions instead of the provision or provisions so repealed, the provision or provisions so repealed shall remain in force until the substituted provision or provisions shall come into operation by force of the last-mentioned Act.

Provision for recovery of fines.

4. The provisions of sections 63, 64, 65, 66, 67, 68, 69 and 70 of the Indian Penal Code, and of section 307[a] of the Code of Criminal Procedure, shall apply to all fines which may be imposed under the authority of any Act hereafter to be passed.

Commencement of Act.

5. This Act shall commence and take effect upon the first day of June now next ensuing.

ACT No. X of 1867.

Received the Lieutenant-Governor's assent on the 6th of July 1867, and the Governor General's assent on the 10th idem.

An Act to continue the existing settlement of the land-revenue in the districts of Katak, Púrí and Balasore, until the expiration of the year 1304 Amlí.

Preamble.

WHEREAS the existing settlement of the land-revenue in the districts of Katak, Púrí and Balasore will expire with the present year 1274 Amlí; and whereas it is expedient to continue the said settlement for a further period of thirty years; It is enacted as follows:—

Existing settlement to continue in force.

1. The existing settlement of the land-revenue of the districts of Katak, Púrí and Balasore, and all rights and interest recognized or defined thereby

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[a] See Act No. X of 1872, sch. V.

shall continue in force until the expiration of the year 1304 Amlí, subject to the following provisions.

Proprietors may dissent.

2. If any recorded proprietor of an estate or any recorded shareholder in an estate held in common tenancy within the said districts, with respect to which an engagement for the payment of public revenue during the existing settlement may have been made, shall not be willing to continue such engagement to the expiration of the year 1304 Amlí, he shall, on or before the first day of September 1867, corresponding with the 18th Bhádra 1274 Amlí, give notice to this effect in writing to the Collector of the district within which such estate as aforesaid may be situate.

On receipt of any such notice, it shall be competent to the Collector to assume the direct management of such estate, or to let the same in farm.

Management of estates of dissenting proprietors.

3. The provisions of sections 3 and 5, Regulation VII of 1822,[a] shall apply to all estates so taken under direct management or let in farm by the Collector; and also to all estates which are now held under direct management or let in farm.

Proprietors not giving notice to be responsible for revenue.

4. All proprietors and shareholders of estates situate within the said districts, with regard to which notice shall not be given within the terms of section 2 of this Act, are hereby declared to be liable to pay revenue in accordance with the terms of the existing settlement during the term of thirty years from the expiration of the Amlí year 1274; and any arrears of such revenue shall be recoverable under the provisions of Act XI of 1859,[b] and of every other Act for the time being in force for the recovery of arrears of revenue.

ACT No. I of 1868.

Received the Lieutenant-Governor's assent on the 12th of May 1868, and the Governor General's assent on the 30th idem.

An Act to make further provision for the survey of steam-vessels plying within the Provinces subject to the Lieutenant-Governor of Bengal.

Preamble.

WHEREAS it is expedient to make further provision for the survey by competent surveyors, and the management by competent engineers, of steam-vessels plying on the rivers or waters within the Provinces subject to the Lieutenant-Governor of Bengal; It is enacted as follows:—

Steam-vessels

1. For section 1 of Act V of 1862,[c] passed by the Lieutenant-Governor of

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[a] See *supra*, p. 178. [b] See *supra*, p. 393. [c] See *supra*, p. 454.

liable to survey.

Bengal in Council, entitled An Act to provide for the periodical survey of steam-vessels in the port of Calcutta, shall be substituted the words following:—

[*See supra, p. 454.*]

Power to appoint ports of survey.

2. It shall be lawful for the Lieutenant-Governor, by an order to be published in the *Calcutta Gazette*, to appoint any ports or places, in the Provinces subject to his government, to be ports of survey for the purposes of the said Act V of 1862, and of this Act.

Addition to sections 3, 5, 6, 7 of Act V of 1862.

3. In sections 3, 5, 6 and 7 of the said Act V of 1862,[a] the words "or any other port of survey" shall be deemed and taken to be inserted therein after the word "Calcutta" wherever the said word may occur in the said sections; and from and after the passing of this Act, the said sections shall be read and construed as if the said words had been so inserted.

Amendment of section 12 of Act V of 1862.

4. In section 12 of the said Act V of 1862, the words "shall not be in any port of survey" shall be substituted for the words "is absent from the port of Calcutta;" and the words "arrival at some port of survey" shall be substituted for the words "return to the port of Calcutta;" and the said section shall, from and after the passing of this Act, be read and construed as if the said words so to be substituted had been originally inserted in the said Act, instead of the said words for which they are so to be substituted.

Power to impose additional fees.

5. It shall be lawful for the Lieutenant-Governor from time to time, by an order to be published in the *Calcutta Gazette*, to direct that in any port of survey other than Calcutta, in addition to the fees imposed by the said Act V of 1862, there shall be paid, for every survey of a steam-vessel in such port, by the owner or master of such steam-vessel such further fee, for or towards the expense of the journey of a surveyor to such port, as in such order shall be set forth; and from time to time in like manner to alter, vary or revoke any such order; and every fee so to be payable shall be recoverable by the ways and means in the said Act provided for the recovery of the fees thereby imposed.

Power to investigate causes of explosions.

6. Whenever any explosion shall occur on board of any steam-vessel subject to this Act, it shall be lawful for the Lieutenant-Governor, if he shall think fit, to direct that an investigation of the cause of such explosion be made by such person or persons as he shall think fit.

The person or persons authorized by the Lieutenant-Governor to make such investigation may enter into and upon such steam-vessel with all necessary workmen and labourers, and remove any portion of such steam-vessel, or of the machinery thereof, for the purpose of such investigation, and shall report the cause of such explosion.

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[a] See *supra*, p. 454.

Examinations for engineers.

7. Examinations shall be instituted for persons who intend to become engineers of steamers, or who wish to procure certificates of competency hereinafter mentioned.

Examiners and rules of examination to be provided.

8. The Lieutenant-Governor, or any Board or officer duly authorized by him in that behalf, shall, from time to time, nominate two or more competent persons for the purpose of examining the qualifications of the applicants for examination, and may make rules for the conduct of such examinations, and as to the qualifications to be required, and the fees to be paid by all applicants for examination.[a]

Certificates of competency to be given.

9. The Lieutenant-Governor, or such Board or officer as aforesaid, shall deliver to every applicant who is reported by the examiners to have passed the examination satisfactorily, a certificate (hereinafter called a "certificate of competency") to the effect that he is competent to act as engineer.

Certificates of service to be given.

10. Every person who, before the passing of this Act, has served for a period of not less than one year as first or only engineer in any steam-vessel, or who has attained or shall attain the rank of first class assistant engineer in the service of Her Majesty, shall be entitled to a certificate of service.

Each of such certificates of service shall contain particulars of the name and of the length and nature of the previous service of the person to whom it is delivered, and the Lieutenant-Governor, or such other authority as aforesaid, shall deliver such certificates of service to the various persons so respectively entitled thereto, upon their proving themselves to have attained such rank, or to have served as aforesaid; and, upon their giving a full and satisfactory account of the particulars aforesaid, and on payment of such fees as the Lieutenant-Governor shall, by an order published in the *Calcutta Gazette*, from time to time direct.

No certificate of survey if vessel has no certificated engineer.

11. No certificate of survey under the said Act V of 1862,[b] or of this Act, shall be granted for any steam-vessel, unless it shall have as its engineer an engineer possessing a certificate of competency or a certificate of service.

Penalty for plying without certificated engineer.

12. The owner, and also the master, of any steam-vessel subject to this Act, which shall ply on any of the rivers or waters in the Provinces subject to the Lieutenant-Governor of Bengal, without having in charge of the engines thereof an engineer possessing a certificate of service or a certificate of competency, shall be liable to a fine not exceeding five hundred rupees.

Power to exempt private steam-vessels.

13. It shall be competent to the Lieutenant-Governor of Bengal to exempt from the operation of sections 11 and 12 any steamer which does not ply with passengers or goods, or as a steam-tug for hire.

Withdrawal of certificate.

14. It shall be lawful for the Lieutenant-Governor, or such Board or

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[a] See *Calcutta Gazette*, 12th September, 1877, Part I, p. 1242.

[b] See *supra*, p. 454.

authority as aforesaid, in case of the misconduct, negligence or incompetency of any engineer possessing a certificate of competency or a certificate of service, to cancel such certificate or to suspend the same for such time as to him or them shall seem fit.

English certificates available.

15. Every engineer's certificate of competency or service, which may be granted by any competent authority in the United Kingdom, shall have, in all respects, the same validity and effect as if the same had been granted under the provisions of this Act.

Certificates to be made in duplicate.

16. All certificates, whether of competency or service, shall be made in duplicate, and one part shall be delivered to the person entitled to the certificate, and the other shall be kept and recorded as the Lieutenant-Governor shall direct.

A note of all orders made for cancelling, suspending, altering or otherwise affecting any certificate in pursuance of the powers herein contained, shall be entered in the record of certificates.

Copy of lost certificate to be given.

17. Whenever any engineer proves to the satisfaction of the Lieutenant-Governor, or of such other authority as aforesaid, that he has, without fault on his part, lost or been deprived of any certificate already granted to him, a copy of the certificate to which, by the record so kept as aforesaid, he appears to be entitled, shall be delivered to him, and shall have all the effect of the original.

Short title.

18. In citing this Act it shall be sufficient to use the expression, "The Steam Boat Survey Amendment Act, 1868."

19.—[*Repealed by Act No. XII of 1873.*]

Construction.

20. This Act shall be read together with, and as part of, the said Act V of 1862.[a]

ACT No. III of 1868.

Received the Lieutenant-Governor's assent on the 2nd of June 1868, and the Governor General's assent on the 16th idem.

An Act to amend the law respecting appeals in cases under Regulation VII of 1822.

Preamble.

WHEREAS it is expedient that the period for presenting appeals under section 29 of Regulation VII of 1822 [b] should be assimilated to the period for bringing appeals in other cases pending before the revenue-authorities; It is enacted as follows :—

Limitation of appeals under section 29,

1. No petition of appeal presented under the provisions of section 29 of Regulation VII of 1822 shall be received after the expiration of thirty days

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[a] See *supra*, p. 454.

[b] See *supra*, p. 178.

from the date of the decision against which such appeal is presented, unless sufficient cause shall be shown for the delay to the satisfaction of the authority to which such appeal is presented. Regulation VII, 1822.

The days shall be reckoned from and exclusive of the day on which the decree was passed, and also exclusive of such time as may be requisite for obtaining a copy of the order appealed against.

ACT No. IV of 1868.

Received the Lieutenant-Governor's assent on the 8th of June 1868, and the Governor General's assent on the 24th idem.

An Act to amend the provisions of Act IX of 1847 (An Act regarding the assessment of lands gained from the sea or from rivers by alluvion or dereliction within the Provinces of Bengal, Bihár and Orissa).

WHEREAS it is expedient to amend the provisions of Act IX of 1847;[a] It is enacted and declared as follows:— Preamble.

1.—[*Repealed by Act No. XII of 1873.*]

2. It is hereby declared that when any islands shall, under the provisions of clause 3, section 4 of Regulation XI of 1825[b] of the Bengal Code, be at the disposal of Government, all lands gained by gradual accession to such island, whether from a recess of the river or of the sea, shall be considered an increment to such island, and shall be equally at the disposal of Government. Accessions to island considered increment thereto.

3. Whenever it shall appear to the local revenue-authorities that an island has been thrown up in a large and navigable river liable to be taken possession of by Government under clause 3, section 4 of Regulation XI of 1825 of the Bengal Code, the local revenue-authorities shall take immediate possession of the same for Government, and shall assess and settle the land according to the rules in force in that behalf, reporting their proceedings forthwith for the approval of the Board of Revenue, whose order thereupon, in regard to the assessment, shall be final. Newly thrown up islands to be assessed.

Provided, however, that any party aggrieved by the act of the revenue-authorities in taking possession of any island as aforesaid, shall be at liberty to contest the same by a regular suit in the civil Court.

4. Any island of which possession may have been taken by the local revenue-authorities on behalf of the Government under section 3 of this Act, Subsequent junction to mainland not

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[a] See *supra*, p. 278.

[b] See *supra*, p. 224.

to affect Government right.

shall not be deemed to have become an accession to the property of any person by reason of such channel becoming fordable after possession of such island shall have been so taken.

Power to apply for ways across islands.

5. Whenever an island, of which possession shall have been taken by Government under section 3 of this Act, shall become attached to the mainland, any person having an estate or interest in any part of the riparian mainland to which such island may become attached while it is in the possession of the Government, may apply to the Collector to take measures for the construction of ways, paths and roads on the island: the costs thereof to be equally divided between the applicant and the Government.

Applicant for ways to deposit money, and ways to be made.

6. Thereupon the Collector may require the applicant to make such deposit of money as to the Collector shall seem sufficient, and on such deposit being made, the Collector shall proceed to lay out and construct such ways, paths and roads in and through the island as he may deem necessary for securing access to the river or sea from the land to which the island may have become attached.

Costs of ways how borne.

7. In every case the applicant shall be liable to pay and make good to the Government one-half of the costs of laying out and constructing such ways, paths and roads as aforesaid, and any moneys due from the applicant under the provisions of this section may be deducted and retained by the Collector out of the deposit so made by the applicant as aforesaid.

Ways to be public.

8. Every way, road and path, which shall be laid out or appointed under the provisions aforesaid, shall be deemed a public highway.

ACT No. VII of 1868.

Received the Lieutenant-Governor's assent on the 16th of July 1868, and the Governor General's assent on the 10th of August 1868.

An Act to make further provision for the recovery of arrears of land-revenue and public demands recoverable as arrears of land-revenue.

Preamble.

WHEREAS it is expedient to amend and extend the law for the recovery of arrears of land-revenue and of public demands recoverable as arrears of land-revenue; It is declared and enacted as follows:—

Interpretation.

1. In this Act and in Act XI of 1859[a] (*to improve the law relating to sales of land for arrears of revenue in the Lower Provinces under the Bengal Presi-*

[a] See *supra*, p. 393.

dency), the words in this section mentioned shall have the meanings therein attributed to them respectively—

the word "proprietor" includes any tenant by whom any estate or tenure is held directly under Government: "Proprietor."

the word "revenue" includes every sum annually payable to Government by the proprietor of any estate or tenure in respect thereof, and every sum payable to Government in respect of takkáví, or of any money advanced by Government to proprietors of land for making or repairing embankments, reservoirs or watercourses, or other improvements on the land held by them: "Revenue."

the word "estate" means any land or share in land subject to the payment to Government of an annual sum in respect of which the name of a proprietor is entered on the register known as the general register of all revenue-paying estates, or in respect of which a separate account may, in pursuance of section 10 or section 11 of the said Act XI of 1859,[a] have been opened: "Estate."

the word "tenure" includes all interests in land whether rent-paying or lákhiráj (other than estates as above defined), and all fisheries, which, by the terms of the grants creating the same, or by the custom of the country, are transferable, whether such tenures are resumable or not, and whether the right of selling or bringing them to sale for an arrear of rent may or may not have been especially reserved by stipulation in any instrument: "Tenure."

the "jurisdiction" of a Collector means the district to which such Collector is appointed, or throughout which any officer vested with the powers of a Collector is authorized to exercise such powers: "Jurisdiction."

the word "Collector" includes any person vested with the powers of a Collector: "Collector."

the word "demand" means any of the following public demands, arrears of which are by law recoverable as arrears of revenue:[b] "Demand."

Any sum due from any public accountant, or from the sureties of any public accountant, on account of any loss or defalcation in the account of such public accountant; Sums due from public accountants and their sureties.

Any sum which may be due from the sureties of any farmer in respect of the revenue of the estate farmed by him; Sums due from sureties of farmers.

Any arrears of revenue payable in respect of any tenure, for the recovery of which the Collector may not think fit to proceed under section 11 of this Act; Arrears in respect of tenures.

Any sum which may be due from any person for his proportion of the authorized expenses of making a division of any estate under Regulation XIX Costs of certain partitions.

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[a] See *supra*, p. 393.

[b] See Bengal Acts No. V of 1875, section 57: No. III of 1876, section 42: No. VII of 1876, section 82: No. VIII of 1876, section 138.

of 1814,[a] or in respect of any fine imposed under section 20 or 21 of the same Regulation;

Costs of embankments.

Any sum which may be due from any person under clause 2 of section 11 of Act XXXII of 1855,[b] or in respect of any award of the expenses of the construction, alteration or extension of any embankment, which may, in pursuance of Act VII of 1866[c] passed by the Lieutenant-Governor of Bengal in Council, be made by any Collector.

Loss on re-sale of estates.

Any sum which may be payable by any person under the provisions of section 23 of the said Act XI of 1859,[d] for the difference between the proceeds of the sale of an estate which may be eventually consummated, and the price bid by such person at a sale of such estate for arrears of revenue;

Water-rates.

Any sum payable to any Collector for water-rate under any agreement made in pursuance of Act VIII of 1867[e] passed by the Lieutenant-Governor of Bengal in Council;

Fines upon farmers.

Any sum payable as a fine under the provisions of Act XX of 1848[f] *(for better enforcing the attendance of proprietors and farmers of land before Collectors of land-revenue in the Lower Provinces of the Bengal Presidency)*:

Other revenue-demands.

Any other demand which by any law for the time being in force is or shall be recoverable as arrears of revenue.

Any arrears of revenue or rent payable to the Government from any raiyat, or from any person holding any interest in land, pasturage, forest-rights, fisheries and the like, which, by the terms of the contract creating the same, or by the custom of the country, is not transferable.

Any arrears of rent payable to a Collector in charge of an estate or tenure on behalf of a private person from any raiyat, or from any person holding any interest in land, pasturage, forest-rights, fisheries and the like, direct from such Collector.[g]

Appeals against sales.

2. It shall be lawful for the Commissioner of revenue to receive an appeal against any sale made under this Act or the said Act XI of 1859, not being a sale made under, and by virtue of, any execution issued upon a certificate made as hereinafter is provided, so that such appeal be preferred to such Commissioner on or before the sixtieth day from the day of sale, reckoning as in section 23 of the said Act XI of 1859, or be presented to the Collector or other officer duly authorized to hold sales under the said Act for transmission to the Commissioner on or before the forty-fifth day from the day of sale, reckoning as aforesaid, and not otherwise; and the Commissioner shall be competent, in every case of appeal so preferred, to annul any sale of an estate or share of an estate made under this Act or Act XI of 1859, which shall appear to him not

[a] Repealed by Ben. Act No. VIII of 1876. [b] See *supra*, p. 290. [c] See *supra*, p. 561.
[d] See *supra*, p. 393. [e] Repealed by Act No. IX of 1872. [f] See *supra*, p. 280.
[g] Bengal Act No. I of 1875.

to have been conducted according to the provisions of the said Acts, awarding at the same time to the purchaser a payment from the proprietor of compensation for his loss, if the sale shall have been occasioned by neglect of the proprietor, such compensation not to exceed the interest at the highest rate of the current Government securities on the amount of deposit or balance of purchase-money during the period of its being retained in the Collector's office: and the order of the Commissioner shall in such cases be final.

Time for revenue-sales extended.

3. From the date when this Act comes into operation, the word "thirty" shall be substituted for the word "fifteen" in section 6 of the said Act XI of 1859,[a] and the words "or more than thirty" in the same section shall be omitted therefrom, and the said section shall be read as if the same had not been inserted therein.

Time for confirmation of sales extended.

4. From the date when this Act comes into operation, the words "sixtieth" and "sixty" shall be substituted for the words "thirtieth" and "thirty" respectively, wherever the said words occur in section 27 of the said Act XI of 1859.

Mode of serving notices.

5. Every notice in and by this Act, or by the said Act XI of 1859, directed to be served, shall be served by delivering to the person to whom it may be directed, a copy thereof attested by the Collector, or by delivering such copy at the usual place of abode of such person, to some adult male member of his family, or, in case it cannot be so served, by posting such copy upon some conspicuous part of the usual or last-known place of abode of such person.

In case such notice cannot be served in any of the ways hereinbefore mentioned, it shall be served in such way as the Collector issuing such notice may direct.

Power to cause notices to be served of arrears or demands.

6. It shall be lawful for the Lieutenant-Governor of Bengal, by an order published in the *Calcutta Gazette*, to empower all Collectors in any district in such order mentioned, if they shall think fit, to cause such notices as shall be in such order specified to be served upon any proprietors or persons liable to any demands, before proceeding under the provisions of the said Act XI of 1859, or of this Act, to realize from such proprietors or persons any arrears of revenue or any demands which may be due from such proprietors or persons, and the costs of serving any such notices as shall be served under the powers conferred by any such order, not exceeding such sums as shall in such order be specified, shall be added to any arrears of revenue or to any demands which may be due from such proprietors or persons, and shall be recoverable as if the same were a portion of such arrears of revenue or of such demands; and every

[a] See *supra*, p. 393.

such order may from time to time be altered, varied or revoked by any other order of the said Lieutenant-Governor to be from time to time in like manner published.

Notices to raiyats to be posted in sub-divisional kachahrí.

7. In addition to the notices in and by section 7 of the said Act XI of 1859[a] directed to be posted, a similar notice shall be posted at the sub-divisional kachahrí within the jurisdiction of which the estate to which such notice refers, or some portion thereof, is situate.

Certificate to be conclusive evidence of regularity in service of notices.

8. Every certificate of title which may be given to any purchaser under the provisions of section 28 of the said Act XI of 1859, or of section 11 of this Act, shall be conclusive evidence in favour of such purchaser and of every person claiming under him, that all notices in or by this Act, or by the said Act XI of 1859, required to be served or posted, have been duly served and posted; and the title of any person who may have obtained any such certificate shall not be impeached or affected by reason of any omission, informality or irregularity as regards the serving or posting of any notice in the proceedings under which the sale was had at which such person may have purchased.

Sales of lákhiráj valid.

9. All sales of lands of lákhiráj tenure which may heretofore have been made in conformity with the procedure established by the said Act XI of 1859, for payment of arrears of revenue or of demands, shall have such and the same force and effect as if they had been made in execution of a decree against the person liable to pay the revenue or demand for satisfaction of which such sale may have been made.

Collectorate to include all estates borne on its roll.

10. Every estate shall, for the purposes of this Act and of the said Act XI of 1859, be deemed to be within the collectorate of the Collector upon whose general register the revenue thereof may be borne, although the whole or any portion of the lands comprised in such estate may be without the local limits of his jurisdiction; but all lands and tenures shall be deemed to be within the jurisdiction within the local limits of which they may be situate, although the estate of which they form a part may, under the provisions of this section, be deemed to be within the collectorate of any other Collector.

Power to sell tenures.

11. Whenever any revenue payable to Government in respect of any tenure not being an estate shall be in arrear after the latest day of payment fixed in the manner prescribed in section 3 of Act XI of 1859, the Collector to whom such revenue is payable may cause the tenure to be sold in the manner and subject to the provisions in and by the said Act XI of 1859 provided for the sale of estates for the recovery of arrears of revenue, and the Collector shall apply the purchase-money arising from such sale according to the provisions of section 31 of the said Act XI of 1859, except that the

[a] See *supra*, p. 393.

residue, if any, shall be held in deposit on account of the holder of the tenure and not on account of the proprietor of the estate; and every such Collector shall, upon every such sale of any tenure being final and conclusive, give to the purchaser thereof such certificate of title thereof as is provided in section 28 of the said Act XI of 1859 with respect to estates:

Provided that no tenure shall be sold for the recovery of arrears of revenue other than those of the current year or of the year immediately preceding, nor for the recovery of arrears of revenue due by tenures under attachment by order of any judicial authority, unless and until after a notification in the language of the district, specifying the nature and amount of the arrear and the latest date on which payment thereof shall be received, shall have been fixed for a period of not less than fifteen clear days preceding the date fixed for payment according to section 3 of Act XI of 1859, in the office of the Collector or other officer duly authorized to hold sales under this Act, in the court of the Judge within whose jurisdiction the land advertised lies, and in the Munsif's Court and Police-thánáof the division in which the tenure to which the notification relates, is situated, or if the tenure be situated within the jurisdiction of more than one Munsif's Court or Police-thánáin some one or more of such Courts or thánás, and also at the kachahrí of the málguzár or owner of the tenure, or at some conspicuous place upon the tenure, the same to be certified by the peon or other person employed for the purpose.[a]

Effect of sale of tenure.

12. The purchaser of any tenure sold under the provisions of section 11 of this Act shall acquire it free from all encumbrances which may have been imposed upon it after its creation, or after the time of settlement, whichever may have last occurred, and shall be entitled to avoid and annul all under-tenures, and forthwith to eject all under-tenants, with the following exceptions:—

First.—Istimrárí or mukarrarí tenures which have been held at a fixed rent from the time of the permanent settlement:

Secondly.—Tenures existing at the time of permament settlement, which have not been held at a fixed rent:

Provided always that the rent of such tenures shall be liable to enhancement under any law for the time being in force for the enhancement of the rent of such tenures;

Thirdly.—Tenures created or recognized by the settlement-proceedings of any current temporary settlement, as tenures bearing a rent which is fixed for the period of such settlement:

Fourthly.—Tenures of lands whereon dwelling-houses, manufactories or

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[a] See Bengal Act No. II of 1871. See also Bengal Act No. V of 1871, section 30.

other permanent buildings have been erected, or whereon permanent gardens, plantations, tanks, canals, places of worship or burning or burying grounds have been made.

Power of enhancement.

13. Every purchaser of a tenure under section 11 of this Act shall be entitled to proceed in the manner prescribed by any law for the time being in force for the enhancement of the rent of any land coming within the fourth class of exceptions above made, if he can prove the same to have been held at what was originally an unfair rent, unless the same shall have been held for a term exceeding twelve years at a fixed rent equal to the rent of good arable land.

Saving of right of raiyat.

14. Provided always that nothing hereinbefore contained shall be construed to entitle any such purchaser, under section 11 of this Act, to eject any raiyat having a right of occupancy at a fixed rent; or at a rent assessable according to fixed rules under the laws in force, or to enhance the rent of any such raiyat otherwise than in the manner prescribed by such laws, or otherwise than as the former proprietor, irrespectively of all engagements made since the time of settlement, may have been entitled to do.

Certificate of unliquidated arrears.

15. Whenever an estate or tenure shall have been sold for the recovery of the arrears of revenue due on account of the same in pursuance of the powers and provisions of the said Act XI of 1859 [a] or of this Act, and the produce of such sale, after defraying thereout the expenses of such sale, shall have been insufficient for the liquidation of all arrears of the revenue of such estate or tenure which, according to the said provisions, may be payable thereout, the Collector of the district shall make under his hand a certificate of the amount of such arrears so remaining unliquidated, in the form in schedule (A) to this Act annexed, and shall cause the same to be filed in his office.

Certificate of arrears payable by farmer.

16. Whenever any estate may be held by any farmer, and arrears of revenue shall be unpaid from such farmer, in respect of such estate, for one month after the latest day of payment fixed in the manner prescribed in section 3 of the said Act XI of 1859, the Collector of the district may make under his and a certificate of the amount of such arrears so remaining unpaid, in the form in schedule (A) to this Act annexed, and may cause the same to be filed in his office.

Certificate to have effect of decree.

17. Every such certificate made in pursuance of the last two preceding sections shall have the force and effect of a decree of a civil Court, and the Government shall be deemed to be the plaintiff, and the person named as debtor therein shall be deemed to be the defendant.

Certificate of arrears of demand payable by person liable.

18. Whenever any arrears of any demand shall be unpaid by any person liable to pay such demand to a Collector for one month after he shall have been

[a] See *supra*, p. 393.

required to pay the same by a notice in writing under the hand of such Collector, the Collector of the district shall make under his hand a certificate of the amount of such arrears so remaining unpaid, in the form in schedule (A) to this Act annexed, and shall cause the same to be filed in his office. able to Collector.

19. Whenever any arrears of any demand shall be unpaid by any person liable to pay such demand to any officer other than a Collector, the officer to whom such demand is payable shall give to the Collector of the district in which such person resides a notice in writing in the form in schedule (B), and such Collector shall make under his hand a certificate of the amount of such arrears so remaining unpaid in the form in schedule (A) to this Act annexed, and shall cause the same to be filed in his office. Certificate of demand payable to person other than Collector.

20. Every such certificate made in pursuance of the last two preceding sections shall, as regards the remedies for enforcing the same, and subject to the provisions hereinafter contained, and so far only, have the force and effect of a decree of a civil Court, and the Government shall be deemed to be the plaintiff, and the person named as debtor therein shall be deemed to be the defendant. Certificate executed as decree of civil Court.

21. The Collector shall forthwith, upon filing any certificate, issue to the defendant a notice in the form in schedule (C). Notice of certificate to be served.

From and after the service of such notice, the certificate shall bind the immoveable property of such defendant situate within the jurisdiction of such Collector as if a prohibitory order had issued and an attachment been executed against such property under the Code of Civil Procedure,[a] and shall also in like manner bind the immoveable property of such defendant situate within the jurisdiction of any other Collector in whose office a copy of such certificate may be filed, from the time of filing such copy.

22. Any person who may be aggrieved by any such certificate may, within one month from the day on which the last-mentioned notice shall have been served, apply, by petition in the form in schedule (D), to the Collector by whom such certificate may have been issued, that the same may be set-aside or modified or varied. Power of objecting to certificate.

Such Collector, after receiving such application, shall fix a day for the hearing of such application, and shall, upon the day appointed for hearing such application, or on any other day to which such hearing may be adjourned, proceed to hear and determine the application of such applicant, and may set-aside or modify or vary such certificate; and every such Collector shall, for hearing and determining any such application, have all the powers in and by the said Code of Civil Procedure[b] conferred upon the Court for the hearing

[a, b] See Act No. X of 1877, section 3.

and determination of claims to attached property, and for enforcement of the costs of such claim; and in case such Collector shall direct the payment of such costs by such applicant, the amount of such costs shall, if the applicant be the defendant, be added to the amount expressed in such certificate, and be recoverable as if the same had been originally contained therein.

Appeal on application to Collector.

23. Every order made by any Collector upon any such application shall be appealable to the Commissioner: provided always that no appeal against any such order shall be brought after the expiration of one month from the date of the passing of such order.

Power to enforce certificate.

24. Every certificate made in pursuance of section 15, 16, 18 or 19 of this Act may be enforced by all or any of the ways and means mentioned and provided in and by the said Code of Civil Procedure[a] for the enforcement of decrees for money; and all the practice and procedure by the said Code,[b] or by any other Act for the time being to be in force in respect of sales in execution of decrees, in respect of arrests in execution of decrees for money, in respect of the execution of decrees by imprisonment, in respect of claims to attached property, and in respect of execution of decrees out of the jurisdiction of the Courts by which they were passed, shall apply to every execution issued for levying the monies expressed in such certificate, save that all the duties, powers and authorities by the said Act, or either of them, imposed or conferred upon the Court, shall be exercised by the Collector in whose office any such certificate, or any copy thereof transmitted for execution according to the provisions of sections 223, 224 and 225 of the said Code of Civil Procedure[c] shall have been filed.

Certificates to be entered in register.

25. Every Collector shall cause to the kept in his office a book in such form as shall from time to time be prescribed by the Government of Bengal, and shall cause to be entered therein the particulars of every certificate under this Act which, or a copy of which, may be filed in his office.

Inspection of register of certificates.

26. Every such book shall be open to the inspection of any person desiring to see the same, during office hours, upon payment of a fee of eight annas.

Satisfaction to be entered.

27. Whenever the amount due upon any such certificate shall be fully paid and satisfied, the Collector in whose office such certificate may be filed, shall enter satisfaction upon such certificate under his own hand and signature, and shall transmit to any Collector in whose office a copy of such certificate may have been filed, and in case of a demand to the officer to whom such demand is payable, a memorandum of such satisfaction.

Transmission of sums received.

28. Whenever any sum shall be levied or received by any Collector in respect of any certificate, a copy of which may have been filed in his office

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[a, b, c] See Act No. X of 1877, section 3.

under the provisions aforesaid, such Collector shall transmit such sum to the office in which such certificate may be filed.

29.—[*Repealed by Act No. XII of 1873.*]

30. This Act shall be read with, and taken as part of, the said Act XI of 1859,[a] as modified by Act III of 1862[b] of the Lieutenant-Governor of Bengal in Council. Construction.

SCHEDULE A.—(*referred to in sections* 15, 16, 18 *and* 19).

Certificate of Arrear of Revenue (or Demand, as the case may be) filed in Office of Collector of District.

Name of Debtor.	Address.	Nature of demand.	Amount of demand.	No. of certificate.
C. D.				

I certify that the above-mentioned sum of rupees is due to Government from the above-named *C. D.*

Dated this day of 18 .

A. B.,
Collector of

[a] See *supra*, p. 393.

[b] See *supra*, p. 453.

SCHEDULE B.—*(referred to in section 19).*

NOTICE OF DEMAND.

To the Collector of the District of

Name of Debtor.	Address of Debtor.	Nature of demand.	Amount of demand.
C. D.			

The above sum of is due from the said *C. D.* in respect of

Certified this day of

A. B.,

SCHEDULE C.—(*referred to in section 21*).

To

C. D. of

SIR,

Take notice that a certificate under section (15, 16, 18, *or* 19, *as the case may be*) of Act VII of 1868 of the Lieutenant-Governor of Bengal in Council of (*arrears of revenue or demand, as the case may be*) No. , for the sum of rupees . . . , due from you on account of has been this day filed by me in my office, and that I shall forthwith proceed to levy the amount according to law.

A. B.,
Collector of

This day of 186 .

SCHEDULE D.—(*referred to in section 22*).

To

The Collector of .

The petition of *E. F.*, of

SHEWETH,

That a certificate under Act VII of 1868, passed by the Lieutenant-Governor of Bengal in Council, No. , for the sum of rupees , has been filed in your office on the day of 186 .

That your petitioner is aggrieved by the said certificate.

That your petitioner believes that such certificate is erroneous upon the grounds following, that is to say—

That the said grounds are, to the best of your petitioner's belief, true in fact.

Your petitioner therefore prays that the said certificate may be set aside (*or* modified *or* varied).

ACT No. I of 1869.

Received the Lieutenant-Governor's assent on the 28th of January 1869, and the Governor General's assent on the 1st of March 1869.

An Act for the prevention of cruelty to animals.

Preamble. WHEREAS it is expedient to make provision for the prevention of cruelty to animals; It is enacted as follows :—

Interpretation of "animal." 1. The word "animal" shall be taken to mean any domestic or tamed quadruped, or any domestic or tamed bird.

Penalty on cruelty to animals. 2. Every person who shall cruelly and wantonly beat, ill-treat, abuse, torture, overdrive or overload, or cause to be beaten, ill-treated, abused, tortured, overdriven or overladen, any animal, shall be liable to a fine which may extend to one hundred rupees.

On baiting animals, or inciting them to fight. 3. Every person who shall incite any quadrupeds or birds, whether domestic or wild, to fight, or shall bait any animal, or shall aid or shall abet any one in so doing, shall be liable to a fine which may extend to fifty rupees.

On permitting diseased animals to go at large or die in public places. 4. Every person who shall wilfully and knowingly permit any animal, of which he may be owner, to go at large in any public street, road or thoroughfare, while such animal is affected with contagious or infectious disease, or shall wilfully permit any diseased or disabled animal, of which he may be owner, to die in any public street, road or thoroughfare, shall be liable to a fine which may extend to one hundred rupees.

On employing animal unfit for labour. 5. Every person who shall employ or cause to be employed in any work or labour, any animal which, in consequence of any disease, infirmity, wounds or sores, is unfit to be so employed, shall be liable to a fine which may extend to fifty rupees.

Trial of offences in Calcutta. 6. All complaints of offences against the provisions of this Act, alleged to have been committed in the town of Calcutta, shall be heard and determined in a summary way by some Police Magistrate of Calcutta.

Trial of offences out of Calcutta. 7. Every charge of an offence against the provisions of this Act, alleged to have been committed out of Calcutta, may be heard and determined by any officer authorized to exercise any of the powers of a Magistrate in the place in which such offence may be alleged to have been committed, and the provisions of the Code of Criminal Procedure shall apply to the trial of every such charge.

8.—[*Repealed by Act No. XII of 1873.*]

Limit of Act. 9. This Act shall extend to the town of Calcutta, and to the suburbs of

the town of Calcutta as defined by any notification under section 1 of the said Act II of 1866.[a]

Power to extend Act.

10. It shall be lawful for the Lieutenant-Governor of Bengal, by an order published in the *Calcutta Gazette*, to extend this Act to any city, town, station, bázár, cantonment, village, district or portion of a district, to be mentioned and defined in such order; and from time to time, by any order published as aforesaid, to revoke, vary, amend or alter any such order.

ACT No. II of 1869.

Received the Lieutenant-Governor's assent on the 28th of January 1869, and the Governor General's assent on the 9th of March 1869.

An Act to ascertain, regulate and record certain tenures in Chutiá Nágpur.

Preamble.

WHEREAS from a very early time certain tenures have existed in Chutiá Nágpur, known as bhúinhári, held by persons claiming to be descendants of the original founders of the villages in which such lands are situated, or their assigns; and also certain similar tenures known as bhút-khetá, dáli-kátári and páhnái, consisting of lands set apart for the duties which the village "páhan," or priest, is required to perform, and for his maintenance; and also other similar tenures known as "mahtoai," consisting of lands allotted to the village mahto, or collector of rents; and whereas, where the above tenures are found, there are also lands known as majhahas, reserved for the use of the respective proprietors of the villages, and at their absolute disposal, and also lands known as bhet-khetá, ordinarily assigned as remuneration to the villagers who work for the proprietor or his assigns on the majhahas land; and whereas disputes have arisen rendering it desirable that these tenures should be defined and recorded, and a register made of all rights, privileges, immunities and liabilities affecting the holders thereof; It is enacted as follows:—

Construction.

1. In the construction of this Act, the words and expressions following shall have the meanings hereinafter in this section attributed to them respectively, unless a contrary sense be apparent from the context:—

"Bhúinhári."

the word "bhúinhári" shall include the tenures mentioned in the preamble as bhut-khetá, dáli-kátári, páhnái and mahtoai:

"Majhahas."

the word "majhahas" shall include the tenure mentioned in the preamble as bhet-khetá:

[a] See *supra*, p. 011.

"The Special Commissioner."

the words "the Special Commissioner" shall be taken to mean a Commissioner to be appointed for the purposes of this Act.

Power to appoint Commissioners.

2. It shall be lawful for the Lieutenant-Governor of Bengal, by an order published in the *Calcutta Gazette*, to appoint one or more persons, as may be judged expedient, to be a Commissioner or Commissioners for the purposes of this Act, and by an order, also published in the *Calcutta Gazette*, to define the limits within which each Special Commissioner so to be appointed shall exercise jurisdiction under this Act; and from time to time, in like manner, to vary or revoke any order made by the said Lieutenant-Governor under the provisions of this Act, and to appoint some other person or persons to be Commissioners for the purposes of this Act.

Limits of jurisdiction.

Duties of Special Commissioner.

3. Each Special Commissioner so appointed shall, with all convenient speed, investigate and ascertain the titles and tenures of all lands within the limits so assigned to him, which may be alleged by any person to be held upon bhúinhári and majhahas tenures respectively, and shall demarcate the same.

Powers of Special Commissioner.

4. In making such investigation, the Special Commissioner, in addition to all powers conferred on him by this Act, shall, as far as may be necessary for the purposes of this Act, exercise all such and the same powers as are conferred by Regulation VII of 1822,[a] and the Regulations and Acts amending the same, upon a Collector making a settlement of land-revenue.

Contents of record.

5. The Special Commissioner shall make an accurate register, in such form as may from time to time be ordered by the Lieutenant-Governor of Bengal, of the lands which he may ascertain to belong to the bhúinhári and majhahas classes respectively; of the conditions to be fulfilled, and the rents and services to be rendered in respect of the several lands of those classes which he may ascertain to be held subject to any conditions, rents or services; and of the rights and privileges to be enjoyed in respect of any such lands.

Power to restore persons wrongfully dispossessed.

6. In case it shall be proved to the Special Commissioner that any person, who within twenty years next before the passing of this Act held any lands of bhúinhári or majhahas-tenure, has been wrongfully dispossessed of such lands, the Special Commissioner shall cause such person, or, in case of his being dead, the heir of such person, to be put in possession of such lands, and shall cause the name of the person so put in possession to be entered in the register as the occupant of the said lands on any bhúinhári or majhahas tenure, as the case may be.

Presumption as to services to be rendered.

7. It shall be presumed that all lands which may be found under the provisions of this Act to be of bhúinhári or majhahas tenure respectively are rightly subject to the conditions, rents and services upon which such lands

[a] See *supra*, p. 178.

respectively are found to be held at the time of the enquiry made by the Special Commissioner, unless it be proved that at some former time, within twenty years before the passing of this Act, such lands were held subject to and upon other and different conditions, rents and services; in which case it shall be presumed that such lands are rightly subject to the conditions, rents and services subject to which they shall be proved to have been held at the earliest period within the said term of twenty years with respect to which such proof shall have been given.

Lands not to be registered if tenure commenced within twenty years.

8. No lands shall be registered as lands of bhuinhari or of majhanas tenure if it be proved that the occupation of such lands upon such tenure commenced within the term of twenty years before the passing of this Act, unless it be proved that such occupation was in pursuance or revival of an occupation upon such tenure rightfully enjoyed before the commencement of such term.

Power to apply for commutation of services.

9. Whenever any lands of bhúinhári tenure are held subject to any conditions or services other than or besides the payment of a rent in money, it shall be lawful for the bhúinhári tenant of such lands, or for any person who may have the immediate right of receiving the rents and services issuing from such lands (provided such last-mentioned person has such right in perpetuity), or if there be no such person other than the zamíndár, then for the zamíndár, to apply in writing to the Special Commissioner for the commutation of all such conditions and services other than or besides the payment of a rent in money.

On such application, notice to appoint assessors to be served.

10. On receipt of any such application, the Special Commissioner shall cause to be served upon each of the persons who under the provisions of section 9 would have a right to make such application, a notice in writing requiring such person, within ten days from the day of the service of such notice, to nominate, by notice in writing to the Special Commissioner, some person to act as assessor to the Special Commissioner in fixing the amount of rent which shall be payable in commutation for such conditions and services, and to be present before the Special Commissioner, and to cause such assessor to be there present upon some day to be named in such notice and not to be less than fifteen days from the day of the service of such notice.

Special Commissioner to hear application with assessors.

11. Upon the day which shall have been appointed by the Special Commissioner for the attendance of the parties and assessors as hereinbefore is provided, the Special Commissioner shall, with the assistance of any assessors who may have been, within the time hereinbefore respectively in that behalf mentioned, duly nominated as aforesaid, and who may be present; and if there be no such assessors, then without such assistance, proceed to consider and determine the amount of rent fairly and equitably to be payable in commutation of the conditions and services other than rent to which such tenure may be subject.

Decision to be by Special Commissioner.

12. The opinion of each assessor shall be given orally, and shall be recorded in writing by the Special Commissioner, but the decision is vested exclusively in the Special Commissioner.

Review of decision by Special Commissioner alone.

13. In case any review of any decision under section 12 may be ordered such review shall be heard and determined by the Special Commissioner without the assistance of assessors; and in case, in consequence of any order on appeal, a further enquiry into the subject-matter of any such decision may be necessary, such further enquiry may, if he shall so think fit, be heard and determined by the Special Commissioner without the assistance of assessors.

Power of appeal.

14. Any person who may be aggrieved by any decision or order of the Special Commissioner made under this Act, may appeal to the Commissioner of the division against such decision or order by a petition; but no such petition shall be received after the expiration of three months from the date of such decision or order, unless sufficient cause for the delay be shewn to the satisfaction of the said Commissioner of the division, who shall have power to hear and determine the matter of every such petition of appeal.

Power to apply for review of judgment.

15. Any person considering himself aggrieved by any order or decision of the Special Commissioner from which no appeal shall have been preferred, or by any order of the Commissioner of the division in appeal, may apply for a review of judgment by the officer by whom such order or decision was made.

Application within a month.

16. Such application may be made within one month from the date of the order or decision, and not afterwards.

Power to grant or refuse review

17. If the Special Commissioner or the Commissioner of the division, as the case may be, shall be of opinion that there are not any sufficient grounds for a review, he shall reject the application; but if he shall be of opinion that the review desired is necessary to correct an evident error or omission, or is otherwise requisite for the ends of justice, the Special Commissioner or the Commissioner of the division, as the case may be, shall grant the review, and his order in either case, whether for rejecting the application or granting the review, shall be final.

Review not to be granted without notice.

18. No review of an order or decision shall be granted until notice shall have been given to every person who had appeared in the proceedings in which such order or decision was made, and whose interest would be injuriously affected by the review desired.

On grant of application for review, re-hearing to be directed.

19. When an application for a review of judgment is granted, such order shall be made for re-hearing the matter in respect of which such order or decision shall have been made as may seem proper.

Decision to be final.

20. No decision or order of the Special Commissioner shall be in any way altered, varied or reversed, save on review by the Special Commissioner under sections 15, 16, 17, 18 and 19 of this Act, or by appeal to the Commissioner

of the division under section 14 of this Act; and no suit shall be received in any Court to vary or set-aside any such order or decision of the Special Commissioner, or any decision or order upon appeal or upon review by the Commissioner of the division, made under the provisions of this Act; and every such decision or order upon appeal by the Commissioner of the division shall be final, unless it be altered, varied or reversed by the said Commissioner on review under sections 15, 16, 17, 18 and 19 of this Act.

No mukhtár nor vakíl to be heard.

21. No mukhtár nor vakíl shall, without the consent of the Special Commissioner, be heard in any proceeding before such Special Commissioner.

22.—[*Repealed by Act No. VII of 1870.*]

Lieutenant-Governor may make rules.

23. It shall be lawful for the said Lieutenant-Governor from time to time to make such rules and orders as to him may seem fit for regulating the practice and procedure to be followed in making the enquiries, investigations, demarcations and registers required by this Act, and all reviews thereof and appeals therefrom; and such rules and orders, when published in the *Calcutta Gazette*, shall have the same force and effect as if the same were a portion of this Act.[a]

Effect of judgment in suits commenced after Act passed.

24. No judgment, decree or order in any suit instituted after the passing of this Act, shall be evidence in any enquiry before the Special Commissioner respecting the tenure upon which any land is held, or the rents, services or conditions to which any land is subject.

Register to be confirmed and published.

25. The register of each village, prepared under the provisions of section 5 of this Act, shall, when finally revised and corrected in accordance with any decisions and orders of the Special Commissioner and the Commissioner of the division, under this Act, be confirmed by the Commissioner of the division, and such confirmation shall be published forthwith in the *Calcutta Gazette*.

Register to be conclusive evidence of matters recorded thereon.

26. Every register to be prepared under this Act, after publication of the confirmation thereof in pursuance of the section next preceding, shall be conclusive evidence of all matters recorded in such register in pursuance of this Act; and from and after such publication of the confirmation of the register relating to any village, no evidence shall be received that any lands in such village not mentioned in such register are of bhuinhári or of majhahas tenure.

Short title.

27. This Act shall be called "The Chutiá Nágpur Tenures Act, 1869."

[a] See *Calcutta Gazette*, 24th March, 1869, p. 629.

ACT No. III of 1869.

Received the Lieutenant-Governor's assent on the 29th of July 1869, and the Governor General's assent on the 13th of August 1869.

An Act to enable Police-officers to arrest without warrant persons guilty of cruelty to animals.

Preamble. WHEREAS it is expedient to enable Police-officers in certain places to arrest without warrant any person committing, within their view, any offence against Act I of 1869[a] passed by the Lieutenant-Governor of Bengal in Council, entitled an Act for the prevention of cruelty to animals; It is enacted as follows:—

Arrest of person guilty of cruelty. 1. Every Police-officer may arrest without a warrant any person committing, in his view, any offence against the said Act I of 1869.

Act to apply to Calcutta and suburbs. 2. This Act shall apply to the town of Calcutta, as defined in Act IV of 1866[b] passed by the Lieutenant-Governor of Bengal in Council, and in the suburbs of the town of Calcutta, as the same may from time to time be defined by any notification to be from time to time published by the said Lieutenant-Governor, in pursuance of the provisions of Act II of 1866,[c] and save as hereinafter is provided to such town and suburbs only.

Power to extend Act. 3. It shall be lawful for the Lieutenant-Governor of Bengal, by a notification to be published in the *Calcutta Gazette*, to extend this Act to any town, suburb, district or tract of country, to be mentioned and defined in such notification; and from and after the publication of such notification, this Act shall extend and apply to the town, suburb, district or tract of country therein mentioned and defined.

ACT No. V of 1869.

Received the Lieutenant-Governor's assent on the 12th of August 1869, and the Governor General's assent on the 26th idem.

An Act to empower the Lieutenant-Governor of Bengal to direct Courts of Session to be held in different towns in a District.

Preamble. WHEREAS doubts have arisen whether cases committed for trial to any Court of session can be legally tried by such Court at any place other than the usual place of sitting of the Court of session or the head-quarters of the Magistrate of a district;

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[a] See *supra*, p. 595. [b] See *supra*, p. 526. [c] See *supra*, p. 511.

And whereas it is expedient that such doubts should be removed, and that provision should be made for the various Courts of session sitting at places other than their usual places of sitting, or the head-quarters of Magistrates of districts; It is enacted and declared as follows:—

Trials may be held in any place in district.

All trials which may have heretofore been held, or may hereafter be held, before any Court of session at any place which may have been, or which shall be, appointed by the Lieutenant-Governor and approved by the High Court as a place for holding such Court of session, shall, if such place be within the district of the Judge of such Court of session, although it be not the usual place of sitting of such Court, nor the head-quarters of the Magistrate of a district, be as good and valid in law as if the place at which they had been held had been the usual place of sitting of the Court of session or the head-quarters of the Magistrate of a district.

ACT No. VII of 1869.

Received the Lieutenant-Governor's assent on the 26th of August 1869, and the Governor General's assent on the 18th of September 1869.

An Act to amend the constitution of the Police-force in Bengal.

Preamble.

WHEREAS it is expedient that the entire Police-establishment in the Provinces under the control of the Lieutenant-Governor of Bengal should cease to be one Police-force, and that the said Provinces should cease to be one general Police-district under one Inspector-General; It is enacted as follows:—

Repeal of section 2, Act V of 1861.

1. Section 2 of Act V of 1861 is repealed, so far as it relates to the Provinces under the control of the Lieutenant-Governor of Bengal.

Power to divide the Provinces into Police-districts.

2. It shall be lawful for the Lieutenant-Governor of Bengal, from time to time, to divide the said Provinces into as many general Police-districts as he may think fit: and from time to time to vary and alter any of such general Police-districts, or to consolidate two or more of such general Police-districts into one district, as he may think fit.

Power to appoint in districts persons to execute duties of Inspector-General.

3. It shall be lawful for the said Lieutenant-Governor, in each such general Police-district to appoint some person to exercise in such district the powers of an Inspector-General of Police, whether such person shall or shall not hold any other office under the said Lieutenant-Governor; and the administration of the Police throughout such general Police-district, and all powers and authorities by the said Act V of 1861 or any other Act conferred on an Inspector-General of Police, shall be vested in such person.

Police-establishment in each district to be considered one Police-force.

4. The entire Police-establishment in every such district shall, for the purposes of the said Act V of 1861, be deemed to be one Police-force, and shall be formally enrolled, and shall consist of such number of officers and men, and shall be constituted in such manner, and the members of such force shall receive such pay, as shall from time to time be ordered by the said Lieutenant-Governor, subject to the sanction of the Governor General of India in Council.

Power to employ Police out of district.

5. It shall be lawful for the Lieutenant-Governor to employ members of the Police-force who have been enrolled in, or appointed to, any one general Police-district, in any other general Police-district within the Provinces subject to his control; and the powers conferred on Police-officers by the Code of Criminal Procedure may be by them exercised in any portion of the said Provinces without reference to the local limits of the general Police-district to which they may respectively belong.

Construction.

6. This Act shall be read and taken, in the Provinces under the control of the Lieutenant-Governor of Bengal, as part of the said Act V of 1861.

ACT No. VIII OF 1869.

Received the Lieutenant-Governor's assent on the 21st of August 1869, and the Governor General's assent on the 15th of October 1869.

An Act to amend the procedure in suits between landlords and tenants.

Preamble.

WHEREAS it is expedient to amend the procedure in suits between landlords and tenants in the Provinces subject to the Lieutenant-Governor of Bengal; It is enacted as follows:—

"Collector" defined.

1. In the construction of this Act the word "Collector" shall include a Deputy Collector in charge of a sub-division, or other officer exercising the powers of a Collector of a district or of a Deputy Collector in charge of a sub-division, by whatever designation such officer may be called.

Raiyats entitled to patta.

2. Every raiyat is entitled to receive from the person to whom the rent of the land held or cultivated by him is payable, a patta containing the following particulars:—

the quantity and boundaries of the land; and, where fields have been numbered in a Government-survey, the number of each field

the amount of annual rent:

the instalments in which the same is to be paid: and

any special conditions of the lease.

If the rent is payable in kind, the proportion of produce to be delivered and the time and manner of delivery.

Raiyats holding land at fixed rates to receive pattás.

3. Raiyats who, in any Province to which this Act may apply, hold lands at fixed rates of rent which shall not have been changed from the time of the permanent settlement of such Province, are entitled to receive pattás at those rates.

Presumption if rent be not changed for 20 years.

4. Whenever, in any suit under this Act, it shall be proved that the rent at which land is held by a raiyat in any such Province has not been changed for a period of twenty years before the commencement of the suit, it shall be presumed that the land has been held at that rent from the time of the permanent settlement, unless the contrary be shewn, or unless it be proved that such rent was fixed at some later period.

Raiyats having right of occupancy, but not holding at fixed rates, to receive pattás.

5. Raiyats having rights of occupancy, but not holding at fixed rates as described in the two preceding sections are entitled to receive pattás at fair and equitable rates.

In case of dispute, the rate previously paid by the raiyat shall be deemed to be fair and equitable, unless the contrary be shewn in a suit by either party under the provisions of this Act.

Right of occupancy of raiyat cultivating or holding land for 12 years.

6. Every raiyat who shall have cultivated or held land for a period of twelve years shall have a right of occupancy in the land so cultivated or held by him, whether it be held under pattá or not, so long as he pays the rent payable on account of the same; but this rule does not apply to khámár, nijjot or sír-land belonging to the proprietor of the estate or tenure and let by him on lease for a term or year by year, nor (as respects the actual cultivator) to lands sub-let for a term or year by year by a raiyat having a right of occupancy.

The holding of the father or other person from whom a raiyat inherits shall be deemed to be the holding of the raiyat within the meaning of this section.

Saving of terms of written contracts.

7. Nothing in the last preceding section shall be held to affect the terms of any written contract for the cultivation of land entered into between a landholder and a raiyat when it contains any express stipulation contrary thereto.

Pattás to which raiyats not having rights of occupancy are entitled.

8. Raiyats not having rights of occupancy are entitled to pattás only at such rates as may be agreed on between them and the persons to whom the rent is payable.

Court when to fix time for which pattá is granted.

9. If on the trial of a suit for the delivery of a pattá instituted by a raiyat having a right of occupancy, the parties do not agree as to the term for which the pattá is to be granted, the Court shall fix such term as under the circumstances of the case may seem just and proper:

Proviso.

Provided that the term shall not in any case be longer than ten years, and, in estates not permanently settled, shall not extend beyond the period for which the proprietor of the estate has engaged with Government:

Provided also that if the defendant be a farmer or other person having only a temporary interest in the land, the term of the pattá shall not extend beyond the period of the continuance of such interest.

For cultivators not having a right of occupancy the term of pattá shall be exclusively in the discretion of the person entitled to the rent of the land.

Person granting pattá entitled to counterpart-engagement.

10. Every person who grants a pattá is entitled to receive from the person to whom the pattá is granted, a kabúliyat or counterpart-engagement in conformity with the terms of the pattá.

The tender to any raiyat of a pattá such as the raiyat is entitled to receive, shall be held to entitle the person to whom the rent is payable to receive a kabúliyat from such raiyat.

Damages for exactions in excess of rent or for receipt withheld. Form of receipt.

11. Every under-tenant or raiyat from whom any sum is exacted in excess of the rent specified in his pattá or payable under the provisions of this Act, whether as abwáb or under any other pretext, and every under-tenant, raiyat or cultivator from whom a receipt is withheld for any sum of money paid by him as rent, shall be entitled to recover from the person receiving such rent damages not exceeding double the amount so exacted or paid.

Receipts for rent shall specify the year or years on account of which the rent is acknowledged to have been paid; and any refusal to make such specification shall be held to be a withholding of a receipt.

Withdrawal of power to compel attendance of tenant. Payment of rent how enforced.

12. All power at any time heretofore vested in zamíndárs and other landholders of compelling the attendance of their tenants for the adjustment of their rents or for any other purpose is withdrawn, and all such persons are prohibited from adopting any means of compulsion for enforcing payment of the rents due to them other than by suit or distress, or otherwise under the provisions of this Act.

Damages for extorting payment by duress.

13. If payment of rent, whether the same be legally due or not, is extorted from any under-tenant or raiyat by illegal confinement or other duress, such under-tenant or raiyat shall be entitled to recover such damages, not exceeding in any case the sum of two hundred rupees, as may be deemed a reasonable compensation for the injury done him by such extortion.

An award of compensation under this section shall not bar or affect any penalty or punishment to which the person practising such extortion may be subject by law.

Enhancement of rent of raiyat holding without, or after expiry,

14. No under-tenant or raiyat, who holds or cultivates land without a written engagement, or under a written engagement not specifying the period of such engagement, or whose engagement has expired or has become can-

celled in consequence of the sale for arrears of rent or revenue of the tenure or estate in which the land held or cultivated by him is situate, and has not been renewed, shall be liable to pay any higher rent for such land than the rent payable for the previous year, unless a written notice[a] shall have been served on such under-tenant or raiyat, in districts or parts of districts where the Faslí year prevails, in or before the month of Jeth, and in districts or parts of districts where the Bengálí year prevails, in or before the month of Pús, specifying the rent to which he will be subject for the ensuing year, and the ground on which an enhancement of rent is claimed. &c., of, written engagement.

Such notice shall be served by order of the Collector in whose jurisdiction the lands are situate, on the application of the person to whom the rent is payable, and shall, if practicable, be served personally upon the under-tenant or raiyat.

If for any reason the notice cannot be served personally upon the under-tenant or raiyat, it shall be affixed at his usual place of residence; or, if he have no such place of residence in the district in which the land is situate, the mode of service of such notice shall be by affixing it at the mál-kachahrí of such land or other conspicuous place thereon, or at the village chaurí or chaupál, or at some other conspicuous place in the village in which the land is situate.

15. Any under-tenant or raiyat on whom such notice as aforesaid has been served may contest his liability to pay the enhanced rent demanded of him, either by complaint of excessive demand of rent as hereinafter provided, or in answer to any suit preferred against him for recovery of arrears of the enhanced rent. Mode of contesting enhancement of rent.

Provided that, where in the course of any settlement-proceedings conducted under Regulation VII of 1822,[b] and confirmed by the Revenue-authorities from time to time empowered in this behalf by the Local Government, a higher rent has been recorded as demandable from any under-tenant or raiyat than was previously paid by him, such rent shall be deemed to have been correctly enhanced until the contrary is proved.

Provided also that any suit by such under-tenant or raiyat to contest his liability to pay the enhanced rent shall be instituted within three months from the date of the service of the notice of enhancement, and provided also that, unless he has instituted such suit within such period, he shall not contest the said liability in answer to any suit which may be preferred against him for recovery of arrears of enhanced rent after the expiration of three months from the date of service of such notice, anything in this Act to the contrary notwithstanding.

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[a] See Bengal Act No. III of 1878, section 4

[b] See *supra*, p. 178.

Dependent taluqdár, &c., holding at fixed rent without change since permanent settlement, not liable to enhancement.

16. No dependent taluqdár or other person possessing a permanent transferable interest in land intermediate between the proprietor of an estate and the raiyat, who, in any Province to which the provisions of this Act may apply, holds his taluq or tenure (otherwise than under a terminable lease) at a fixed rent which has not been changed from the time of the permanent settlement, shall be liable to any enhancement of such rent, anything in section 51, Regulation VIII of 1793 [a] or in any other law to the contrary notwithstanding.

Evidence of occupancy since permanent settlement at current rent.

17. Whenever, in any suit under this Act, it shall be proved that the rent at which a taluq or other tenure is held in the said Provinces has not been changed for a period of twenty years before the commencement of the suit, it shall be presumed that such taluq or tenure has been held at that rent from the time of the permanent settlement, unless the contrary be shewn, or it be proved that such rent was fixed at some later period.

Rent of raiyat not enhanceable unless—

18. No raiyat having a right of occupancy shall be liable to an enhancement of the rent previously paid by him, except on some one of the following grounds, namely:—

rate paid being below that prevailing:

that the rate of rent paid by such raiyat is below the prevailing rate payable by the same class of raiyats for land of a similar description and with similar advantages in the places adjacent:

value of land having increased:

that the value of the produce or the productive powers of the land have been increased otherwise than by the agency or at the expense of the raiyat:

quantity of land held being greater than he has paid for.

that the quantity of land held by the raiyat has been proved by measurement to be greater than the quantity for which rent has been previously paid by him.

When raiyat may claim abatement.

19. Every raiyat having a right of occupancy shall be entitled to claim an abatement of the rent previously paid by him, if the area of the land has been diminished by diluvion or otherwise, or if the value of the produce or the productive powers of the land have been decreased by any cause beyond the power of the raiyat, or if the quantity of land held by the raiyat has been proved by measurement to be less than the quantity for which rent has been previously paid by him.

Relinquishment by raiyat after notice.

20. Any raiyat who desires to relinquish the land held or cultivated by him shall be at liberty to do so provided he gives notice of his intention in writing to the person entitled to the rent of the land or his authorized agent, in districts or parts of districts where the Faslí year prevails, in or before the month of Jeth, and in districts or parts of districts where the Bengálí year prevails, in or before the month of Pús, of the year preceding that in which the relinquishment is to have effect.

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[a] See *supra*, p. 19.

If he fail to give such notice, and the land is not let to any other person, he shall continue liable for the rent of the land.

If the person entitled to the rent of the land or his agent refuse to receive any such notice and to sign a receipt for the same, the raiyat may make an application to the Collector in whose jurisdiction the lands are situate, who shall thereupon cause the notice to be served on such person or his agent in the manner provided in section 14.

What to be deemed arrear of rent under Act.

21. Any instalment of rent which is not paid on or before the day when the same is payable according to the pattá or engagement, or if there be no written specification of the time of payment, at or before the time when such instalment is payable according to established usage, shall be held to be an arrear of rent under this Act, and unless otherwise provided by written agreement, shall be liable to interest at twelve per centum per annum.

Liability of raiyat to be ejected.

22. When an arrear of rent remains due from any raiyat at the end of the Bengálí year, or at the end of the month of Jeth of the Faslí or Wiláiyatí year, as the case may be, such raiyat shall be liable to be ejected from the land in respect of which the arrear is due:

Proviso.

Provided that no raiyat having a right of occupancy, or holding under a pattá the term of which has not expired, shall be ejected otherwise than in execution of a decree or order under the provisions of this Act.

Liability of farmer to have lease cancelled.

23. When an arrear of rent shall be adjudged to be due from any farmer or other leaseholder not having a permanent or transferable interest in the land, the lease of such leaseholder shall be liable to be cancelled, and the leaseholder to be ejected:

Proviso.

Provided that no such lease shall be cancelled, nor the leaseholder ejected otherwise than in execution of a decree or order under the provisions of this Act.

Suits by or against sarráhkárs or tahsíldárs of estates held khás.

24. All suits which under the provisions of this Act may be brought by or against zamíndárs or other persons in the receipt of the rent of land, may be brought by or against sarbaráhkárs or tahsíldárs of estates held under khás management, whether such estates are the property of Government or of individuals.

Proprietor's right to survey and measure estate.

25. Every proprietor of an estate or tenure, or other person in receipt of the rents of an estate or tenure, has the right of making a general survey and measurement of the lands comprised in such estate or tenure, or any part thereof, unless restrained from doing so by express engagement with the occupants of the lands.

Registry of transfers of taluqdárs &c.

26. All dependent taluqdárs and other persons possessing a permanent transferable interest in land, intermediate between the zamíndár and the cultivator, are required to register in the sharishtá of the zamíndár or superior tenant to whom the rents of their talugs or tenures are payable, all transfers

of such taluqs or tenures, or portions of them, by sale, gift or otherwise, as well as all successions thereto, and divisions among heirs in cases of inheritance.

And every zamíndár or superior tenant is required to admit to registry and otherwise give effect to all such transfers, when made in good faith, and all such successions and divisions.

Provided that no zamíndár or superior tenant shall be required to admit to registry or give effect to any division or distribution of the rent payable on account of any such tenure, nor shall any such division or distribution of rent be valid and binding without the consent in writing of the zamíndár or superior tenant.

Limitation of certain suits.

27. All suits instituted for the recovery of damages on account of the illegal exaction of rent, or of any unauthorised cess or impost, or on account of the refusal of receipts for rent paid, or on account of the extortion of rent by confinement or other duress, or on account of the excessive demand of rent, and all suits for abatement of rent, and all suits to eject any raiyat, or to cancel any lease on account of the non-payment of arrears of rent or of the breach of the conditions of any contract by which a raiyat may be liable to be ejected, or a lease may be liable to be cancelled, and all suits to recover the occupancy of any land, farm or tenure from which a raiyat, farmer or tenant has been illegally ejected by the person entitled to receive rent for the same and all suits arising out of the exercise of the power of distraint for arrears of rent conferred on zamíndárs and others by this or any other Act or out of any acts done under colour of the exercise of the said power, shall be commenced within the period of one year from the date of the accruing of the cause of action, and not afterwards.

Limitation of suits for grant of pattás, &c.

28. Suits for the delivery of pattás or kabúliyats and for the determination of the rates of rent at which such pattás or kabúliyats are to be delivered, may be instituted at any time during the tenancy.

Limitation of suits for arrears of rent.

29. Suits for the recovery of arrears of rent shall be instituted within three years from the last day of the Bengal year, or from the last day of the month of Jeth of the Faslí or Wiláiyatí year, in which the arrear claimed shall have become due:

Provided that, if the suit be for the recovery of rent at a higher rate than was payable in the previous year, such rent having been enhanced after issue of notice under section 13 of Act X of 1859,[a] or under section 14 of this Act; and the enhancement not having been confirmed by any competent Court, the suit shall be instituted within three months[b] from the end of the Bengal year,

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[a] See *supra*, p. 356.

[b] Calendar months, 2 Calc. L. R. 265.

or of the month of Jeṭh of the Faslí or Wiláiyatí year, on account of which such enhanced rent is claimed.

Limitation of suits against agents for money, papers or accounts.

30. Suits for the recovery of money in the hands of an agent or for the delivery of accounts or papers by an agent may be brought at any time during the agency or within one year after the determination of the agency of such agent:

Provided that, if the person having the right to sue shall by means of fraud have been kept from the knowledge of the receipt of any such money by the agent, or if any fraudulent account shall have been rendered by the agent, the suit may be brought within one year from the time when the fraud shall have been first known to such person; but no such suit shall in any case be brought at any time exceeding three years from the termination of the agency.

Suit for further balance to be instituted within six months of service of notice of deposit.

31. Whenever a deposit on account of rent shall have been made under the provisions of this Act, or of Act VI of 1862,[a] passed by the Lieutenant-Governor of Bengal in Council, no suit shall be brought against the person making the deposit, or his representatives, on account of any rent which accrued due prior to the date of the deposit, unless such suit be instituted within six months from the date of the service of the notice in section 5 of the said Act VI of 1862, or in section 47 of this Act mentioned.

Náibs or gumáshtas when deemed recognized agents under Code of Civil Procedure.

32. Every náib or gumáshta thereto specially authorized by any writing under the hand of his employer shall, for the purposes of all suits for any of the causes of action mentioned in section 27, 28, 29 or 30 of this Act, be deemed to be the recognized agent of such employer within the meaning of section 37 of the Code of Civil Procedure,[b] though such employer may be within the jurisdiction of the Court in which such náib or gumáshta may appear or make any application.

Cognizance of suits under Act.

33. From and after the time when this Act shall commence and take effect in any place, the jurisdiction, save as regards any suits or proceedings then pending, of the collectorate Courts in such place, under Act X of 1859[c] of the Governor General in Council, and Act VI of 1862 of the Council of the Lieutenant-Governor of Bengal, to entertain suits, shall cease: and all suits brought for any cause of action arising under either of those Acts or this Act shall, from such time and in such place, be cognizable by the civil Courts according to their several jurisdictions.

Proceedings to be regulated under Code of Civil Procedure.

34. Save as in this Act is otherwise provided, suits of every description brought for any cause of action arising under this Act, and all proceedings therein, shall be regulated by the Code of Civil Procedure passed by the Governor General in Council, being Act No. X of 1877, and by such further

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[a] See *supra*, p. 463. [b] Act No. X of 1877. [c] See *supra*, p. 356.

and other enactments of the Governor General in Council in relation to Civil Procedure as now are, or from time to time may be, in force; and all the provisions of the said Act and of such other enactments shall apply to such suits.

Jurisdiction in certain suits.

35. The cause of action in suits brought for the delivery of any pattá or kabúliyat, or for the cancelment of any lease, for the determination of rates of rent, for illegal exactions of rent, cess or impost, for refusal of receipts, for rent paid, for extortion of rent, for excessive demand of rent, for abatement of rent, for arrears of rent, and for refusing to register transfers, successions or divisions under section 26, shall be deemed to have arisen within the jurisdiction of the Court which would have had jurisdiction to entertain a suit for the recovery of the land or other immoveable property in relation to which the cause of action arose, and shall be brought in such Court and in no other Court.

Provision when cause of action arises in different jurisdictions.

36. If the land which by the provisions of the next preceding section determines the place in which the cause of action in the suits in the said section mentioned shall be deemed to have arisen, be situate within the jurisdiction of different Courts, the provisions of section 19 of the said Code of Civil Procedure [a] shall apply to such suits, as if the same had been suits for the recovery of such land.

Proceedings in case of opposition made to measurement.

37. If any person intending to measure any land which he has a right to measure, is opposed in making such measurement by the occupant of the land; or if any under-tenant or raiyat, having received notice of the intended measurement of land held or cultivated by him, which is liable to such measurement, refuses to attend and point out such land, the person claiming the right to measure such land may apply to establish his right to measure such land, in the Court which would have jurisdiction in case such suit had been brought for the recovery of such land, and such Court shall hear and determine the right to make such measurement, and, if the case shall so require, shall make an order enjoining or excusing the attendance of any such under-tenant or raiyat.

If any under-tenant or raiyat, after the issue of an order enjoining his attendance, neglects to attend and to point out the land, it shall not be competent to him to contest the correctness of the measurement made, or any of the proceedings held, in his absence.

Measurement when it cannot be ascertained who are liable to pay rent.

38. If the proprietor of an estate or tenure, or other person entitled to receive the rents of an estate or tenure, is unable to measure the lands comprised in such estate or tenure, or any part thereof, by reason that he cannot ascertain who are the persons liable to pay rent in respect of the lands or any part of the lands comprised therein, such proprietor or other person may apply to the Court which would have had jurisdiction in case a suit had been

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[a] Act No. X of 1877.

brought for the recovery of such lands, and such Court thereupon, and on the necessary costs being deposited therein by the applicant, shall order such lands to be measured, and shall cause a copy of such order to be transmitted to the Collector in whose jurisdiction the lands are situate, together with the sum so deposited for costs, and the Collector shall thereupon proceed to measure such lands, and shall ascertain and record the names of the persons in occupation of the same, or, on the special application of the proprietor or other person aforesaid, but not otherwise, shall proceed to ascertain, determine and record the tenures and under-tenures, the rates of rent payable in respect of such lands, and the persons by whom respectively the rents are payable.

If after due enquiry the Collector shall be unable to cause such lands to be measured, or to ascertain or record the names of the persons in occupation of the same, or if he shall (in any case in which such special application shall have been made as aforesaid) be unable to ascertain who are the persons having tenures or under-tenures in such lands, or any part thereof, then and in any such case such Collector may declare the same to have lapsed to the party on whose application such enquiry may have been made.

If any person, within fifteen days after such Collector shall have recorded the name of such person as being in occupation of such land, or any part thereof, or shall have declared a tenure to have lapsed, shall appear and show good and sufficient cause for his previous non-appearance, and satisfy such Collector that there has been a failure of justice, such Collector may, upon such terms or conditions as may seem fit, alter or rescind such order according to the justice of the case.

Proceedings on completion of measurement.

39. The Collector shall, as soon as conveniently may be after he shall have finally completed any such measurement and record, return a copy thereof to the Court by which such measurement had been ordered, and such Court shall receive and record the same; and every decision of the Collector made in pursuance of the provisions of section 38 shall be appealable as if the same had been an order of the Court into which such copy had been returned, made upon the day on which such copy was so returned; but save as aforesaid, every decision of such Collector made in pursuance of the provisions of section 38 shall be final.

Collector's powers.

40. The provisions of the said Code of Civil Procedure [a] and the Acts amending the same, or of any other Act or Acts for the time being in force in civil Courts in Bengal, relating to the evidence of witnesses, to procuring the attendance of witnesses and the production of documents, and to the examination, remuneration and punishment of witnesses, shall apply to all proceedings

[a] Act No. X of 1877.

before any Collector under section 38; and for the purposes aforesaid, the Collector shall have all the powers and authorities in and by such Acts or any of them conferred upon the Court.

Measurement to be made by the pargana pole.

41. All measurements made under this Act shall be made according to the standard pole of measurement of the pargana in which the land is situated.

Register of suits.

42. All suits brought under any of the provisions of this Act shall be entered in a special register of the Court kept for that purpose.

Form of plaint in suits for arrears.

43. In any suit hereafter to be brought for the recovery of an arrear of rent, the plaint shall specify the name of the village and estate, and of the pargana or other local division in which the land is situate, the yearly rent of the land, the amount (if any) received on account of the year for which the claim is made, the amount in arrear, and the time in respect of which it is alleged to be due.

If the arrear is alleged to be due from any raiyat, the plaint shall further specify the quantity of land; and where fields have been numbered in a Government survey, the number (if it be possible to give it) of each field.

When Court may award to plaintiff additional damages not exceeding 25 per cent.

44. In any suit hereafter to be brought for rent under the provisions of this Act, if it shall appear to the Court that the defendant has, without reasonable or probable cause, neglected or refused to pay the amount due by him, and that he has not, before the institution of the suit, tendered such amount to the plaintiff or his duly authorized agent, or in case of the refusal of the plaintiff or such agent to receive the amount tendered, has not deposited such amount in the Court before the institution of the suit in manner hereinafter mentioned, it shall be lawful for the Court to award to the plaintiff, in addition to the amount decreed for rent and costs, such damages, not exceeding twenty-five per centum on the amount of rent decreed, as the Court may think fit.

These damages, if awarded, as well as the amount of rent and costs decreed in the suit, shall carry interest at the rate of twelve per centum per annum from the date of decree until payment thereof.

Award of compensation to defendant improperly sued.

45. In any suit hereafter to be brought for rent under the provisions of this Act, if it shall appear to the Court that the plaintiff has instituted the suit against the defendant without reasonable or probable cause, or that the defendant had before the institution of the suit duly deposited in the Court, in the manner hereinafter mentioned, the full amount which the Court shall find to have been due to the plaintiff at the date of such deposit, it shall be lawful for the Court to award to the defendant, by way of compensation, such sum, not exceeding twenty-five per centum on the whole amount claimed by the plaintiff, as the Court may think fit; and such sum, with interest at the

rate of twelve per centum per annum until payment thereof, shall be recoverable from the plaintiff in like manner as sums ordered to be paid by decrees of such Court.

Under-tenant or raiyat may after tender, &c., pay into Court, without action brought, what he admits to be due.

46. If any under-tenant or raiyat shall, at the mál-kachahrí for the receipt of rents, or other place where the rents of the land or other immoveable property held or cultivated by him are usually payable, tender payment of what he shall consider to be the full amount of rent due from him at the date of the tender to the zamíndár or other person in receipt of the rent of such land; and if the amount so tendered shall not be accepted, and a receipt in full shall not be forthwith granted, it shall be lawful for the under-tenant or raiyat, without any suit having been instituted against him, to deposit such amount in the Court having jurisdiction to entertain a suit for such rent, to the credit of the zamíndár or other person aforesaid: and such deposit shall, so far as the under-tenant or raiyat, and all persons claiming through or under him, are concerned, in all respects operate as, and have the full effect of, a payment then made by the under-tenant or raiyat, of the amount deposited, to such zamíndár or other person.

Payment into Court to have effect of payment to zamíndár or other person entitled.

Proceedings on payment into Court and drawing out money.

47. Such deposit shall be received in such Court on the application of the under-tenant or raiyat, or his agent, made in writing, and on the under-tenant or raiyat, or his agent, making a declaration in the form, or, as nearly as circumstances will admit, in the form, set forth in the schedule (A) hereto annexed, and the Court shall give a receipt for the same under its seal.

If the declaration shall contain any averment which the person making the declaration shall know or believe to be false, or shall not know or believe to be true, such person shall be subject to punishment according to the law for the time being in force for the punishment of giving or fabricating false evidence.

Upon receiving the money so deposited, the Court shall issue a notice to the person to whose credit it has been deposited, in the form set forth in the schedule (B) hereto annexed; and such notice shall be served by the Court, without the payment of any fee, either upon the person to whom it is addressed, or upon his náib, gumáshta or other agent; and in the absence of any such agent, it shall be served by sticking up a copy of the same in the said Court, and another copy upon the mál-kachahrí for the receipt of rents, or other place where the rents are usually paid for the land in respect of which the money has been deposited.

If the person to whom such notice is issued or his duly authorized agent shall appear, and apply that the money in deposit be paid to him, it shall be immediately made over to him.

After action brought, defendant may

48. The defendant in any suit instituted under any of the provisions of this Act, may, if he have duly tendered the same to the plaintiff before the

pay into Court, without costs, money tendered before.

institution of the suit, pay into Court such sum of money as such defendant may consider to be due to the plaintiff, without paying in any costs incurred by the plaintiff up to the time of such payment, and such sum shall be immediately paid out of Court to the plaintiff.

Costs, if plaintiff goes on and recovers no more.

If after such payment the plaintiff elects to proceed in the suit, and ultimately recovers no further sum than shall have been paid into Court, the plaintiff shall be charged with the whole costs of the suit incurred by the defendant; but if the plaintiff ultimately recovers a further sum than shall have been paid into Court, the defendant shall be charged with the whole costs of the suit.

If no previous tender made, defendant may pay into Court what he admits to be due, with costs on that sum.

49. The defendant in any suit instituted under any of the provisions of this Act may, without having made any tender before action brought, pay into Court such sum of money as he shall consider to be due to the plaintiff, together with the costs (to be fixed by the Court, if necessary, as of a suit originally instituted for the amount so paid into Court) incurred by the plaintiff up to the time of such payment, and such sum shall immediately be paid out of Court to the plaintiff.

Costs, if plaintiff goes on with suit.

If after such payment the plaintiff elects to proceed in the suit, and ultimately recovers no further sum than shall have been paid into Court, he shall be charged with all costs incurred by the defendant subsequently to such payment; but if the plaintiff ultimately recovers a further sum than shall have been paid into Court, the defendant shall be charged with costs as upon a suit originally instituted, for the whole amount for which the plaintiff ultimately obtains a decree, but shall have credit thereout for the amount of costs paid into Court by him in the first instance.

No warrant of arrest before judgment.

50. No warrant of arrest before judgment shall be issued in a suit for arrears of rent due in respect of a dependent taluq or other transferable tenure which may be liable to sale in execution of any decree which may be passed in the case.

Mesne profits may be claimed in suits for recovery of land.

51. It shall be lawful for any person entitled to recover the possession of land under any of the provisions of this Act, to include in his plaint a claim for the mesne profits of the land.

Suits for ejectment or cancelment of lease.

52. Any person desiring to eject a raiyat or to cancel a lease on account of non-payment of arrears of rent, may sue for such ejectment or cancelment, and for recovery of the arrear, in the same action, or may adduce any unexecuted decree for arrears of rent as evidence of the existence of such arrear in a suit for such ejectment or cancelment.

In all cases of such suits for the ejectment of a raiyat or the cancelment of a lease, the decree shall specify the amount of the arrear; and if such amount, together with interest and costs of suit, be paid into Court within fifteen days from the date of the decree, execution shall be stayed.

When Court to issue immediate execution.

53. Whenever in any suit brought by any zamíndár or other person in receipt of the rent of land, to eject any cultivator not having a right of occupancy, or to eject any farmer or other tenant holding only for a limited period after the determination of his lease or tenancy, or any agent after the determination of his agency, or to enforce any attachment or ejectment expressly authorised by any Regulation or Act, the Court shall pass a decree in favour of the plaintiff, no application in the form provided in section 235 of the said Code of Civil Procedure[a] shall be necessary, but the Court shall forthwith, upon the plaintiff depositing in Court the necessary expenses, make an order for delivery of possession in execution of the decree.

Provided, however, that in cases to which section 52 of this Act is applicable, no such order shall be made until after the expiration of fifteen days from the date of the decree.

In such cases, execution not stayed pending appeal.

54. It shall not be lawful for the Court to entertain any application for stay of execution of any such order pending any appeal, and no person who shall have been evicted under any such order shall be restored to possession so long as the decree under which such order was issued shall remain unreversed.

If person required by decree refuse to grant pattá, Court may do so.

55. When a decree is given for the delivery of a pattá, if the person required by the decree to grant such pattá refuse or delay to grant the same, the Court may grant a pattá in conformity with the terms of the decree under the signature and seal of such Court, and such pattá shall be of the same force and effect as if granted by the person aforesaid.

Refusal to execute kabúliyat as required by decree.

56. When a decree is given for the delivery of a kabúliyat, if the person required by the decree to execute such kabúliyat shall refuse to execute the same, the decree shall be evidence of the amount of rent claimable from such person, and a copy of the decree under the signature and seal of the Court shall be of the same force and effect as a kabúliyat executed by the said person.

Process not to issue simultaneously against both person and property.

57. Process of execution in any suit instituted under this Act may be issued against either the person or the property of a judgment-debtor, but process shall not be issued simultaneously against both the person and property.

No execution after three years from date of judgment.

58. No process of execution of any description whatsoever shall be issued on a judgment in any suit for any of the causes of action mentioned in section 27, 28, 29 or 30 of this Act, after the lapse of three years from the date of such judgment, unless the judgment be for a sum exceeding five hundred rupees, in which case the period within which execution may be had shall be regulated by the general rules in force in respect to the period allowed for the execution of decrees of the Court.

[a] Act No. X of 1877.

Procedure on sale of under-tenure.

59. Whenever a decree may be passed for an arrear of rent due in respect of an under-tenure which by the title-deeds or the custom of the country is transferable by sale, and the judgment-creditor shall make application for the attachment and sale of such under-tenure, the Court shall, so soon as such under-tenure shall have been ordered to be sold, cause to be hung up in some conspicuous part of the building in which such Court sits, and of the buildings in which the Collector and Judge of the district within which the land comprised in such under-tenure is situate, and to be affixed on some conspicuous place on such land and on some conspicuous place in the town or village in or nearest to which such land is situate, a notice for the sale of such under-tenure on some fixed date not less than twenty days from the hanging-up of such notice in such Court.

Contents of notice of sale of under-tenure.

60. Every such notice shall specify in the words used in the plaint in the suit in which the decree was made, the name of the village, estate and pargana, or other local division in which the land comprised in the said under-tenure is situated, the yearly rent payable under the said under-tenure, and the gross amount recoverable under the said decree.

Under-tenures not to be sold while other execution in force.

61. No order for the sale of any such under-tenure shall be made in execution of a decree for recovery of arrears of rent payable in respect thereof, when a warrant of execution has been previously issued against the person or moveable property of the judgment-debtor, so long as such warrant remains in force.

If, after sale of any such under-tenure in execution of such decree, any portion of the amount decreed remains due, process may be applied for and issued against any other property, moveable or immoveable, belonging to the debtor.

How sale may be stayed by person interested in under-tenure.

62. If the sum due under the decree, together with interest to date of payment, and all costs of process be paid into Court at any time before the sale commences, whether by the defaulting holder of the under-tenure or any one on his behalf, or any one interested in the protection of the under-tenure, such sale shall not take place; and the provisions of section 13 of Regulation VIII of 1819,[a] for the recovery of sums paid by persons other than the defaulting holder of the under-tenure to stay the sale of the under-tenure, shall be applicable to all similar payments made under this section.

If third party claim to be lawful possessor of under-tenure, Court to stay sale

63. If after attachment and before sale of any such under-tenure as aforesaid in execution of a decree for arrears of rent due in respect of such under-tenure, any third party may prefer a claim alleging that such third party and not the person against whom the decree has been obtained is the proprietor

[a] See *supra*, p. 158.

of such under-tenure, and was in lawful possession of the same at the time when such decree was obtained, the Court shall not postpone such sale, unless and until such third party shall have deposited in Court the amount of the decree, or given sufficient security for the same.

and to adjudicate upon claim, upon decree being paid or secured.

Provided always that no transfer of an under-tenure which, by the provisions of this Act or any other law for the time being in force, is required to be registered in the sharishtá of the zamíndár or superior tenant, shall be recognized unless it has been so registered, or unless sufficient cause for non-registration be shewn to the satisfaction of the Court.

Unregistered transfers not recognized.

64. If a decree is given in favour of a sharer in a joint undivided estate, dependent taluq or other similar tenure, for money due to him on account of his share of the rent of an under-tenure situate in such undivided estate, taluq or tenure, no order for the sale of such under-tenure in execution of such decree shall be made unless and until all moveable property (if any) which such judgment-debtor may possess within the jurisdiction of the Court in which the suit was instituted, shall have been seized and sold in execution of such decree, and the sale of such property, if any, shall have proved insufficient to satisfy the judgment.

Execution of decrees in favour of sharers in undivided estates or tenures.

In such case such under-tenure, if of the nature described in section 59 may be seized and sold in execution of such decree, according to the ordinary procedure of the Court and not in the manner provided in the said section, and every such sale shall have such and the same effect as the sale of any immoveable property sold in execution of a decree not being for arrears of rent payable in respect thereof.

65. In the execution of any decree for the payment of any money under this Act, not being money due as arrears of rent of a saleable under-tenure, if satisfaction of the judgment cannot be obtained by execution against the person or moveable property of the debtor within the district in which the suit was instituted, the judgment-creditor may apply for execution against any immoveable property belonging to such debtor.

When judgment-creditor may apply for execution against immoveable property.

66. The purchaser of an under-tenure under the provisions of sections 59 and 60 of this Act shall acquire it free of all incumbrances which may have accrued thereon by any act of any holder of the said under-tenure, his representatives or assignees, unless the right of making such incumbrances shall have been expressly vested in the holder by the written engagement under which the under-tenure was created, or by the subsequent written authority of the person who created it, his representatives or assignees, provided that nothing herein contained shall be held to entitle the purchaser to eject khúdkásht raiyats or resident and hereditary cultivators, nor to cancel *bonâ fide* engagements made with raiyats or cultivators of the classes aforesaid by any holder

Purchaser to acquire under-tenure, with certain exceptions, free of incumbrances.

of the under-tenure or his representatives, except it be proved in a regular suit to be brought by such purchaser for the adjustment of his rent, that a higher rent would have been demandable at the time such engagements were contracted by his predecessor.

Nothing in this section shall be held to apply to the purchase of a tenure by the previous holder thereof through whose default the tenure was brought to sale.

Zamíndár how to proceed if purchaser do not register.

67. The purchaser of an under-tenure sold under this Act shall apply to the zamíndár or other landholder within fifteen days from the day of sale to have his name registered in the zamíndár or other landholder's books as the purchaser, and shall execute a kabúliyat on the same terms and conditions on which the under-tenure was held by the defaulter; and if such application be not made within fifteen days, it shall be lawful for the zamíndár or other landholder to sue the said purchaser for the delivery of a kabúliyat.

Produce of land held hypothecated for rent.

68. The produce of the land is held to be hypothecated for the rent payable in respect thereof; and when an arrear of rent, as defined in section 21 of this Act, is due from any cultivator of land, the zamíndár, lákhirájdár, farmer, dependent taluqdár, under-farmer or other person entitled to receive the rent of such land immediately from the actual cultivator thereof, instead of bringing suit for the arrear as hereinbefore provided, may recover the same by distraint and sale of the produce of the land on account of which the arrear is due, under the following rules.

Recovery of arrears of rent by distraint.

Cultivators who have given security exempt from distraint.

Provided always that, when a cultivator has given security for the payment of his rent, the produce of the land for the rent of which security has been given shall not be liable to distraint.

Proviso.

Provided also that no sharer in a joint estate, dependent taluq or other tenure in which a division of lands has not been made amongst the sharers, shall exercise the power of distraint otherwise than through a manager authorized to collect the rents of the whole estate, taluq or tenure on behalf of all the sharers in the same.

No distraint in certain cases.

69. Distraint shall not be made for any arrear which has been due for a longer period than one year; nor for the recovery of any sum in excess of the rent payable for the same land in the preceding year, unless a written engagement for the payment of such excess has been executed by the cultivator.

Power of distraint exercised by managers under Court of Wards, &c.

70. The power of distraint vested by section 68 in zamíndárs and other persons entitled to receive rent from cultivators of land, may be exercised by managers under the Court of Wards, sarbarákárs and tahsíldárs of estates held under khás management, and other persons lawfully entrusted with the charge of landed property; and also by náibs, gumáshtas and other agents

employed by any such persons as aforesaid in the collection of rent, if expressly authorized by power-of-attorney in that behalf.

Provided that if any illegal act is committed by any such náib, gumáshta or other agent under colour of the exercise of the said power, the person employing such agent shall be liable, as well as the agent, for any damages accruing by reason of such act. Proviso.

71. Standing crops and other ungathered products of the earth, and crops or other products when reaped or gathered and deposited in any threshing-floor or place for treading out grain or the like, whether in the field or within a homestead, may be distrained by persons invested with the powers of distraint under the provisions of this Act. Standing crops and crops gathered, but not stored, liable to distraint.

But no such crops or products other than the produce of the land in respect of which an arrear of rent is due, or of land held under the same engagement, and no grain or other produce after it has been stored by the cultivator, and no other property whatsoever, shall be liable to distraint under this Act.

72. Before or at the time when distraint is made under this Act, the distrainer shall cause the defaulter to be served with a written demand for the amount of the arrear, together with an account exhibiting the grounds on which the demand is made. Defaulter to be served with written demand, &c., before or at time of distraint.

The demand and account shall, if practicable, be served personally on the defaulter, or if he abscond or conceal himself so that they cannot be so served, shall be affixed at his usual place of residence.

73. Unless the amount of the demand is immediately paid or tendered, the distrainer may distrain property as aforesaid of value proportionate to the amount of the arrear with costs of the distress; and shall prepare a list or description of the said property, and deliver a copy of the same to the owner, or if he be absent affix it at his usual place of residence. Distress proportionate to arrear if not paid or tendered.

74. Standing crops and other ungathered products may, notwithstanding the distraint, be reaped and gathered by the cultivator, and may be stored in such granaries or other places as are commonly used by him for the purpose. Standing crops, &c., when attached, to be reaped and stored by cultivator, or, if he neglect to do so, by distrainer.

If the cultivator neglect to do so, the distrainer shall cause the said crops or products to be reaped or gathered, and in such case shall store the same either in such granaries or other places as aforesaid, or in some other convenient place in the neighbourhood.

In either case the distrained property shall be placed in the charge of some person appointed by the distrainer for the purpose.

Crops or products which from their nature do not admit of being stored, may be sold before they are cut or gathered, under the rules hereinafter provided; but in such case the distraint shall be made at least twenty days

before the time when the crops or products or any part of the same would be fit for cutting or gathering.

Distrainer may apply for aid to Court upon resistance made or apprehended.

75. If a distrainer shall be opposed or shall apprehend resistance, and shall desire to obtain the assistance of a public officer, he may apply to the Court which under the provisions of this Act would have jurisdiction to entertain a suit for the rent for which such distrainer is about to distrain, and the Court may, if it thinks necessary, depute an officer to support the distrainer in making the distraint.

Authority to be given to servant employed to distrain.

76. When any person empowered to distrain property under section 68 or section 70 shall employ a servant or other person to make the distress, he shall give to such servant or person a written authority for the same, and the distress shall be made in the name and on the responsibility of the person giving such authority.

Distress to be withdrawn on tender of arrear and expenses prior to day of sale.

77. If at any time after property has been distrained, and prior to the day fixed for its being put up to sale as hereinafter provided, the owner of the property shall tender payment of the arrear demanded of him and of the expenses of the distress, the distrainer shall receive the same, and shall forthwith withdraw the distress.

Application for sale.

78. Within five days from the time of the storing of any distrained crops or products, or if the crops or products do not, from their nature, admit of being stored, within five days from the time of making the distress, the distrainer shall apply for sale of the same to the Court which would have jurisdiction to entertain a suit for the rent for which the distress was made.

Form of application.

79. The application shall be in writing and shall contain an inventory or description of the property distrained, the name of the defaulter and his place of residence, the amount due and the date of the distress, and the place in which the distrained property is deposited.

Cost of notice upon defaulter to be deposited by distrainer.

Together with the application, the distrainer shall lodge in Court the amount necessary for the service of a notice upon the defaulter as hereinafter provided.

Procedure by civil Court on receipt of application.

80. Immediately on receipt of any application under the provisions of the next preceding section, the Court to which such application shall have been made shall appoint an officer to conduct the sale of such property, and shall cause to be served a notice (which shall be in the form contained in the schedule (C) to this Act or to the like effect) on the person whose property has been distrained, requiring him either to pay the amount demanded, or to institute a suit to contest the demand before such Court within the period of fifteen days from the receipt of the notice; and shall at the same time cause to be affixed upon some conspicuous place in the Court-house, a proclamation fixing a day for the sale of the distrained property, which shall not be less

than twenty days from the date of the application; and shall deliver a copy of the proclamation to the peon charged with the service of the notice, to be put up by him in the place where the distrained property is deposited.

The proclamation shall contain a description of the property, the demand for which it is to be sold and the place where the sale is to be held.

Sale to be suspended when suit instituted.

81. If a suit shall be instituted in pursuance of the aforesaid notice, the Court shall suspend proceedings in regard to the sale of the distrained property, and shall certify to the officer appointed to conduct the sale of such suspension.

Suit to contest distrainer's demand before issue of notice of sale.

82. Any person whose property has been distrained in the manner in this Act provided, may institute a suit to contest the demand of the distrainer immediately after the distraint of his property, and before the issue of notice of sale; when such suit is instituted, the Court shall suspend proceedings in respect of the sale of such property.

Distress to be withdrawn on receipt of certificate that owner has executed bond to pay decree with interest and costs.

83. The person whose property has been distrained may, at the time of instituting any such suit as aforesaid or at any subsequent period, execute a bond with sufficient security, binding himself and his sureties to pay whatever sum may be adjudged to be due from him with interest and costs of suit; and when such bond is executed, the Court shall give to the owner of the property a certificate to that effect, or, if so requested, shall serve the distrainer with notice of the same, and upon such certificate being presented to the distrainer by the owner of the property, or served on him by order of the Court, the property shall be released from distraint.

Value of claim in suits disputing distress.

84. The estimated value of the claim made in any suit filed under the provisions of sections 80, 82 and 96, or any of them, shall be deemed to be the amount of arrears of rent for which the distraint shall have been made.

On expiration of period fixed in proclamation of sale, if institution of suit to contest distrainer's demand not certified, sale may proceed.

85. On the expiration of the period fixed in the proclamation of sale, if a suit to contest the demand of the distrainer be not in the meantime instituted in the Court and certified to the officer appointed to conduct the sale, such officer shall, unless the said demand, with such costs of the distress as shall be allowed by him, be discharged in full, proceed to sell the property or such part of it as may be necessary, in the manner hereinafter prescribed.

Place and manner of sale of distrained property.

86. The sale shall be held at the place where the distrained property is deposited, or at the nearest ganj, bázár, hát or other place of public resort, if the officer appointed to conduct the sale should be of opinion that it is likely to sell there to better advantage.

The property shall be sold by public auction in one or more lots as such officer holding the sale may think advisable; and if the demand with the costs of distress and sale be satisfied by the sale of a portion of the property, the distress shall be immediately withdrawn with respect to the remainder.

If fair price be not offered, sale may be postponed, and shall be then completed at whatever price offered.

87. If on the property being put up for sale a fair price in the estimation of the officer holding the sale be not offered for it, and the owner of the property or some person authorized to act on his behalf apply to have the sale postponed until the next day or the next market-day if a market be held at the place of sale, the sale shall be postponed until such day, and shall be then completed, whatever price may be offered for the property.

Payment of purchase-money.

88. The price of every lot shall be paid for in ready money at the time of sale or as soon after as the officer holding the sale shall think necessary; and in default of such payment the property shall be put up again and sold.

When the purchase-money has been paid in full, the officer holding the sale shall give the purchaser a certificate describing the property purchased by him and the price paid.

Proceeds of sale.

89. From the proceeds of the sale of distrained property, the officer holding the sale shall make a deduction at the rate of one anna in the rupee on account of the costs of the sale, and shall transmit the amount to the Court in order that it may be credited to Government.

He shall then pay to the distrainer the expenses incurred by the distrainer on account of the distress and of the issue of the notice and proclamation of sale prescribed in section 80, to such amount as, after examination of the statement of expenses furnished by the distrainer, he shall think proper to allow.

The remainder shall be applied to the discharge of the arrear for which the distraint was made, with interest thereupon up to the day of sale; and if there be any overplus, it shall be delivered to the person whose property shall have been sold.

Officers holding sales prohibited from purchasing.

90. Officers holding sales of property under this Act, and all persons employed by or subordinate to such officers, are prohibited from purchasing, either directly or indirectly, any property sold by such officers.

Irregularities to be reported to Court.

91. Officers holding sales of distrained property are required to bring to the notice of the Court any material irregularities committed by distrainers under colour of this Act; and if in any case, on proceeding to hold a sale of property, such officer shall find that the owner of the property has not received due notice of the distress and intended sale; he shall postpone the sale and report the case to the Court, and the Court shall direct the issue of another notice and proclamation of sale under section 80, or pass such other order as may seem proper.

Recovery of expenses if officer proceed to place of sale and no sale take place.

92. When any such officer has proceeded to any place for the purpose of holding a sale and no sale takes place either for the reason stated in the last preceding section or because the demand of the distrainer has been previously satisfied, no intimation of such satisfaction having been given by the distrainer to such officer, the charge of one anna in the rupee on account of expenses

shall be leviable and shall be calculated on the estimated value of the distrained property.

If the demand of the distrainer be not satisfied until the day fixed for the sale, the charge for expenses shall be paid by the owner of the property and may be recovered by the sale of such portion thereof as may be necessary.

In all other cases the Court shall make an order that such expenses shall be paid by the distrainer, and shall in such order fix the amount to be paid by him; such amount not to exceed the sum of ten rupees; and the amount by such order directed to be paid may be recovered from such distrainer as if such order were a decree of such Court.

Proceedings of officers, &c., subject to revision and orders of Court.

93. All proceedings under this Act of the officers appointed to hold sales of distrained property shall be subject to the revision and orders of the Court to which they respectively are attached, and the Court may require the submission of such reports and statements of business performed by such officers as may be thought necessary.

Second proclamation of sale.

94. When a suit has been instituted to contest the demand of a distrainer and the property has not been released on security, if the demand or any portion of it shall be adjudged to be due, the Court shall issue an order to the officer appointed to conduct the sale of such property and furnish a copy of such order to the distrainer authorizing the sale of the property; and on the application of the distrainer, which shall be made within five days from the receipt by him of such copy of such order, such officer shall publish a second proclamation in the manner prescribed in section 80, fixing another day for the sale of the distrained property, which shall not be less than five nor more than ten days from the date of the proclamation; and unless the amount adjudged to be due with the costs of distress, including any costs of suit which may be ordered to be paid by the person instituting such suit, be paid intermediately, shall proceed to sell the property in the manner hereinbefore provided.

Procedure after institution of suit to contest distrainer's demand.

95. In all suits instituted to contest the demand of a distrainer, the distrainer shall be required to prove the arrear in the same manner as if he had himself instituted a suit for the amount.

If the demand or any part thereof is found to be due, the Court shall make a decree for the amount in favour of the distrainer, together with such costs of suit as to such Court may seem proper, and the amount may be recovered by sale of the property as provided in the last preceding section if the distress has not been withdrawn, and if any balance remain due after such sale, by execution of the decree against the person and any other property of the defaulter, or if the property has been released on security, by execution of the decree against the person and property of the defaulter and of his surety.

If, on the other hand, the distraint is adjudged to be vexatious or groundless, the Court, besides directing the release of the distrained property, may award such damages in favour of the plaintiff as the circumstances of the case shall seem to require, and may decree the costs of the suit to be paid by the distrainer.

Owner of property distrained for arrears of rent alleged to be due from another, may institute suit against distrainer.

96. If any person shall claim, as his own, property which has been distrained for arrears of rent alleged to be due from any other person, such person may institute a suit against the distrainer and such other person to try the right to the possession of the property in such Court, and in like manner and under the same conditions as to the time of instituting the suit and to the consequent postponement of sale, as a person whose property has been distrained for an arrear of rent alleged to be due from him may institute a suit to contest the demand.

When any such suit is instituted, the property may be released upon security being given for the value of the same.

If the claim is dismissed, the Court shall make an order for the sale of the property or the recovery of the value thereof, as the case may be, for the benefit of the distrainer, and for payment of such costs of suit to such distrainer, as to such Court shall seem fit.

If the claim is upheld, the Court shall decree the release of the distrained property with costs, and such damages (if any) as the circumstances of the case may seem to require.

Provided always that no claim to any produce of land liable to distraint under this Act, which at the time of the distress may have been found in the possession of a defaulting cultivator, whether such claim be in respect of a previous sale, mortgage or otherwise, shall bar the prior claim of the person entitled to the rent of the land; nor shall any attachment in execution of a judgment or decree of any Court prevail against such prior claim.

Persons prevented from suing in time to save property from sale, may sue for damages.

97. If any person, whose property has been distrained for the recovery of a demand not justly due, or of a demand due or alleged to be due from some other person, is prevented by any sufficient cause from bringing a suit to contest the demand or to try the right to the property, as the case may be, within the period allowed by sections 82 and 96, and his property is in consequence brought to sale, he may nevertheless institute a suit under this Act to recover damages for the illegal distress and sale of his property.

Also persons aggrieved by illegal act of distrainer.

98. If any person empowered to distrain property or employed for the purpose under a written authority by a person so empowered, shall distrain or sell, or cause to be sold, any property for the recovery of an arrear of rent alleged to be due otherwise than according to the provisions of this Act, or if any distrained property shall be lost, damaged or destroyed by reason of the

distrainer not having taken proper precautions for the due keeping and preservation thereof, or if the distraint shall not be immediately withdrawn when it is required to be withdrawn by any provision of this Act, the owner of the property may institute a suit under this Act to recover damages for any injury which he may have thereby sustained.

Unlawful distraint.

99. If any person not empowered to distrain property under sections 68 and 70 of this Act, nor employed for the purpose under a written authority by a person so empowered, shall under colour of this Act distrain or sell or cause to be sold any property, the owner of the property may institute a suit under this Act to recover damages from such person for any injury which he may have sustained from the distraint or sale.

The said person shall, when the act complained of does not amount to criminal trespass, be liable to fine which may extend to three hundred rupees, or to imprisonment, simple or rigorous, which may extend to two months, or to both, in addition to any damages which may be awarded against him in such suit.

Time for commencing suits for damages.

100. Provided always that any suit which may be instituted under any of the last three sections shall be commenced within three months from the date of the occurrence of the cause of action.

Procedure on resistance to distraint, &c.

101. If any person shall resist a distraint of property duly made under this Act, or shall forcibly or clandestinely remove any distrained property, the Court which would have jurisdiction in a suit for the rent for which such distraint was made, shall, upon complaint being made within fifteen days from the date of such resistance or removal, cause the person accused to be arrested; and if the offence be proved, and the offender be the owner of the property, shall order him to be imprisoned in the civil jail for six months, or until the whole arrear due to the distrainer, with all expenses and costs, shall be paid or levied by attachment and sale of the property of the offender under warrant of the Court.

If the person convicted of the offence be any other than the owner of the property, he shall make good to the distrainer the value of the same, and shall further be liable to a fine not exceeding one hundred rupees, or, in default of payment thereof, to imprisonment for a period not exceeding two months.

No appeal from decree of district Judge for money below 100 rupees, unless it involve right to enhance or title to land.

102. Nothing in this Act contained shall be deemed to confer any power of appeal in any suit tried and decided by a district Judge, originally or in appeal, if the amount sued for, or the value of the property claimed, does not exceed one hundred rupees, in which suit a question of right to enhance or vary the rent of a raiyat or tenant, or any question relating to a title to land or to some interest in land as between parties having conflicting claims thereto, has not been determined by the judgment.[a]

[a] As to whether this section is *ultra vires* of the Bengal legislature, see 1 Calc. L. R. 39.

Review of judgment.

103. No application for a review of any judgment or order passed in any suit brought under the provisions of this Act shall be received by any Court after the expiration of thirty days from the date of such order or judgment, but nothing in this section contained shall be deemed to apply to the High Court of Judicature at Fort William in Bengal.

Small Cause Court not to have jurisdiction.

104. Nothing in this Act contained shall be deemed to confer upon any Court sitting as a Court of Small Causes cognizance of any suit brought under the provisions of this Act, of which it would not have had cognizance if this Act had not been passed.

Power to issue process free of charge.

105. If in any case the Court is satisfied that a party is unable to pay the cost of any necessary process in any suit under this Act, it may direct such process to be served free of charge.

Application of Act.

106. This Act shall take effect in those districts in the Provinces subject to the Lieutenant-Governor of Bengal to which the said Lieutenant-Governor shall extend it by an order published in the *Calcutta Gazette*, and thereupon this Act shall commence and take effect in the districts named in such order at the day and time which shall be in such order provided for the commencement thereof.[a]

Enactments to cease to have operation in places in which Act takes effect.

107. When and so soon as this Act shall commence and take effect in any district, the various provisions mentioned in schedule (D) hereto annexed shall cease to have operation or effect in such district, save so far as they repeal or modify any other Regulations or Acts, and save so far as regards suits or proceedings which before the time of the commencement of this Act shall have been instituted before any Collector.

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[a] *Notification* [*Calcutta Gazette*, 2nd March, 1870]—The 24th February 1870.—In supersession of the Notification of the 14th January 1870, it is hereby notified that, under section 106 of Act VIII (B. C.) of 1869,—an Act to amend the procedure in suits between landlords and tenants,—the said Act shall take effect from the 13th day of April 1870, corresponding with the 1st Baisákh 1277 of the Bengálí year, in the districts of the Lower Provinces of Bengal named below:—

Division.	District.	Division.	District.
Bhágalpur	Bhágalpur. Munger. Parniyá.	Burdwan	Burdwan. Bankúra. Bírbhúm. Húglí. Howrah. Mednípur.
Patná	Patna. Gayá. Champaran. Sáran. Sháhábád. Tirhút.	Presidency	Nadiyá. Jessore. 24-Parganas.
Rájsháhí	Rájsháhí. Bagurá. Dinájpur. Máldah. Murshidábád. Pabná. Rangpur.	Dháká	Dháká. Bákirganj. Faridpur. Maimansingh. Silhat.
		Chittagong	Chittagong. Noakhally. Tipperah.

Pending suits to be carried on under former practice.

108. Whenever any suit or other proceeding under the provisions of the Acts in the schedule (D) mentioned, or of any of them, shall at the time when this Act comes into operation in any place have been instituted before any Collector or other officer having under the provisions of the same Acts or of any of them jurisdiction in such suit or proceeding, such suit or proceeding and all appeals therein shall be heard and determined, and execution of any decree or order therein shall be had, and the practice and procedure therein shall be such and the same, as if this Act had not been passed.

Act not to affect powers conferred by Chutiá Nágpur Tenures Act.

109. Nothing in this Act contained shall be deemed to take away or abridge any power or authority conferred by an Act passed by the Lieutenant-Governor of Bengal in Council, entitled an Act to ascertain, regulate and record certain tenures in Chutiá Nágpur,[a] on any person appointed to be a Special Commissioner thereunder or on the Commissioner of the division of Chutiá Nágpur.

Act VII of 1868 saved

110. Nothing in this Act contained shall in any way affect any of the provisions of Act VII of 1868 [b] of the Council of the Lieutenant-Governor of Bengal for the recovery of arrears of land-revenue and other demands recoverable as arrears of land-revenue.

Short title.

111. This Act shall be called "The Landlord and Tenant Procedure Act, 1869."

SCHEDULE A

(referred to in section 47).

I, *A. B.*, of, *&c.*, do solemnly declare that I did personally (*or* by my agent, *C. D.*), on the day of tender payment to *E. F.*, at his mál-kachahrí (*or* at) the place where the rent of the lands at , held or cultivated by me under or from the said *E. F.* are usually payable, of the sum of rupees as and for the whole amount due from me in respect of the rent of the said lands from the month of to the month of , both inclusive. I further declare that the said *E. F.* refused to accept the said sum so tendered (or to give me a receipt in full forthwith for the same); and I do declare that, to the best of my belief, the sum of rupees so tendered, and which I now desire to pay into Court, is the full amount which I owe the said *E. F.* on account of the rent of the said lands from the month of to the month of , both inclusive,

[a] Bengal Act No. II of 1869. See *supra*, p. 595.

[b] See *supra*, p. 582.

and that I owe the said *E. F.* no further sum on account of the rent of the said lands.

SCHEDULE B

(*referred to in section 47*).

Court of

Dated the day of 18

To *E. F.*, of, &c.

WITH reference to the within declaration, you are hereby informed that the sum of rupees therein mentioned is now in deposit in this Court, and that the above sum will be paid to you or to your duly authorized agent on application; and take notice that if you have any further claim or demand whatsoever to make against the said *A. B.*, in respect of the rent of the said lands, you must institute a suit in Court for the establishment of such claim or demand within six calendar months from this date, otherwise your claim will be for ever barred.

[*Copy of declaration in schedule A to be annexed.*]

SCHEDULE C

(*referred to in section 80*).

FORM OF NOTICE TO OWNER OF DISTRAINED PROPERTY.

Court of

A. B., Distrainer.

(*Name, description and address of the owner of the property.*)

WHEREAS the said *A. B.* has applied to have the distrained property specified below sold for the recovery of alleged to be due to him as arrears of rent, you are hereby required, either to pay the said sum to the said *A. B.*, or to institute a suit in the Court of to contest the demand within fifteen days from the receipt of this notice, failing which the property will be sold.

Dated this day of 18

SCHEDULE D

(referred to in sections 107 and 108).

Being Acts made inoperative in Districts in which this Act is in force.

DATE AND NO. OF ACT.	TITLE OF ACT.	EXTENT OF REPEAL.
Act X of 1859 ...	An Act to amend the law relating to the recovery of rent in the Presidency of Fort William in Bengal.	The whole Act.
Act VI of 1862, passed by the Lieutenant-Governor of Bengal in Council.	An Act to amend Act X of 1859.	The whole Act.
Act IV of 1867, passed by the Lieutenant-Governor of Bengal in Council.	An Act to explain and amend Act VI of 1862, passed by the Lieutenant-Governor of Bengal in Council, and to give validity to certain judgments.	The whole Act.

ACT No. IV OF 1870.

Received the Lieutenant-Governor's assent on the 20th of May 1870, and the Governor General's assent on the 17th of June 1870.

An Act to consolidate and amend the law relating to the Court of Wards within the Provinces under the control of the Lieutenant-Governor of Bengal.

WHEREAS it is expedient to consolidate and amend the law relating to the Court of Wards within the Provinces subject to the control of the Lieutenant-Governor of Bengal; It is enacted as follows:— Preamble.

PART I.

Definitions.

1. In this Act the following words and expressions shall have the meanings hereby attributed to them respectively, unless a contrary intention appear from the context, that is to say— Interpretation.

the word "Collector" includes any officer in charge of the revenue-jurisdiction of a district; "Collector."

"the Court" shall mean the Court of Wards: "Court."

"Estate." the word "estate" shall mean any land subject to the payment to Government of revenue in respect of which the name or names of a proprietor or of proprietors are entered on the general register of estates paying revenue immediately to Government in the Collector's office of the district:

"Disqualified proprietor." the words "disqualified proprietor" shall mean persons who by the provisions of this Act are subject to the superintendence and jurisdiction of the Court of Wards:

"Minor." the word "minor" shall mean a person under the age of eighteen years.

PART II.

Persons disqualified to manage their own Property; and Properties which may be brought under the Management of the Court of Wards.

Estates of disqualified proprietors not subject to sale.

2. All proprietors of entire estates (other than proprietors who are subject to the jurisdiction as respects infants and lunatics of a High Court) who are, or may be, females not deemed by the Court competent to the management of their own estates, or who are, or may be, minors, and all proprietors of entire estates who for the time being are, or may be, of unsound mind, or otherwise incapable of managing their affairs by reason of any disqualifying natural or acquired defect, shall be subject to the superintendence and jurisdiction of the Court of Wards; and all estates, the property of any such disqualified proprietors, when taken charge of by the Court of Wards, shall, whilst they shall be under the superintendence and jurisdiction of the Court, be exempt from sale for arrears of revenue.

Provided, however, that all arrears of revenue shall be the first charge upon the proceeds of such estate in case the same may be sold for any other cause while under such superintendence and jurisdiction.

Provision as to estates of joint proprietors.

3. The superintendence of the Court is not to extend to joint proprietors of estates, any one of whom may not be of any of the descriptions specified in section 2.

Provided that whenever, by any order made under the provisions of section 14 of Act XL of 1858,[a] passed by the Legislative Council of India, any Collector shall be directed to retain possession of the persons and properties of still disqualified proprietors, all further proceedings shall be had and taken according to the provisions of this Act as if such still disqualified proprietors were proprietors of an entire estate.

[a] See *supra*, p. 344.

And in case any of the qualified proprietors shall so consent, the management of the shares of such qualified proprietors may be retained or assumed by the Collector and carried out under the provisions of this Act, so long as it shall seem fit to the Collector and such qualified proprietors.

Disqualified persons acquiring estates.

4. No person shall become a ward of the Court by reason of his acquiring, while subject to any such disqualification as aforesaid, any estate, unless the same shall have accrued to him in the regular course of inheritance on the death of the person to whom he may succeed in such estate, or under, and by virtue of, the will of, or some settlement made by, some deceased owner thereof.

Provided always that it shall be competent to the Board of Revenue to direct the Court to take charge of any estate, being the property of any disqualified person, or of any two or more persons, both or all of whom may be disqualified, although the same shall not have descended to such person or persons in any regular course of inheritance or succession, nor accrued to him or them by devise or settlement as aforesaid, whenever the same shall appear to the Board of Revenue to be advisable for the interests of Government, and of the proprietor or proprietors; and such estates under the superintendence and jurisdiction of the Court shall be exempt from sale for arrears of revenue accruing whilst they shall be under the superintendence and jurisdiction of the Court.

Provided, however, that all arrears of revenue shall be the first charge upon the proceeds of such estates in case the same may be sold for any other cause while under such superintendence and jurisdiction.

And such estates shall be considered in all respects, as far as regards the management of them by the Court, as if they had devolved to the proprietor or proprietors in the regular course of inheritance or succession, or accrued to him or them by devise or settlement as aforesaid: and such proprietor or proprietors shall in all respects be treated by the Court accordingly.

Court to take charge of property.

5. When any person shall become a ward, the Court shall take charge of all property, real or personal, belonging to such proprietor, inclusive of any share in any joint undivided estate and of any tenures or shares of tenures of land.

Provided that no such share, if subject to the payment of public revenue, shall be liable to sale for recovery of arrears of revenue, or for other demands similarly recoverable, until after the end of the year in which such arrears accrued.

When, however, the share has been separated under section 10 or 11 of Act XI of 1859,[a] passed by the Legislative Council of India, the protection

[a] See *supra*, p. 393.

given to entire estates under section 2 of this Act will be extended to such share subject to the provisions of sections 13 and 14 of the said Act XI of 1859.

Power to refuse to admit ward.

6. It shall be lawful for the Court, if it shall think fit, by an order under the seal thereof, to refuse to admit any such disqualified proprietor as aforesaid to be a ward thereof: or by like order, and with the sanction of the Board of Revenue, to discharge any estate from the Court's further superintendence and jurisdiction.

Provided, however, that no estate, the sole property of a minor or of two or more minors, and descended to him or them by the regular course of inheritance, or by virtue of the will of some deceased owner thereof, shall, until such minor or some one or more of such minors shall have attained the age of eighteen years, be sold for arrears of revenue accruing subsequently to his or their succession to the same:

Provided, also, that all arrears of revenue shall be the first charge upon the proceeds of such estate in case the same may be sold while such proprietor is disqualified.

But the Revenue-authorities shall, on an arrear so accruing, be authorized to farm the estate for a period not exceeding ten years, nor exceeding the time when the minor or one of the minors shall have attained the age of eighteen years.

Provided, further, that the Court may by a further order rescind any such order and make such disqualified proprietor a ward of the Court.

The exemption from sale for arrears of revenue, given by this section, shall only apply to cases where due notice shall have been given to the Collector, and been acknowledged by him before the sale, of the fact that the estate is the sole property of a minor, or the property of two or more minors.

Application of proceeds of farmed estate.

7. When an estate shall have been farmed under the provisions of the last preceding section, the proceeds of such farm shall be paid to the Collector, and the Collector, after the deduction of the amount of the claims of the Government for revenue, shall, with the sanction of the Board of Revenue, either pay the same to the person authorized to receive it for the minor, or shall dispose of it for the minor's benefit in any of the modes mentioned in section 49.

PART III.

Constitution and Powers of the Court of Wards.

Court of Wards in each division.

8. In every division of the Provinces subject to the control of the Lieutenant-Governor of Bengal, there shall, from and after the passing of this Act, be a Court of Wards.

The Commissioner of revenue of each such division shall be such Court, and shall have and exercise all the powers and authorities conferred by this Act upon the Court over the persons and property of all wards of such Court.

Power to manage estates.

9. It shall be competent to the Court to manage estates and other lands falling under their charge, either by appointment of a manager, or by giving some or all of the estates and lands in farm, or by adopting such other form of management as may to the said Court seem most expedient.

Provided that no lease or farm shall, except under the sanction of the Board of Revenue, be given for a term exceeding ten years, nor beyond the period of expiration of the ward's minority, and provided that all leases given by the Court, or by the Collector acting for the Court, or by the manager, shall become null and void on the removal of the estate from the superintendence of the Court for whatever cause, save leases made with such sanction as aforesaid.

Power to make orders.

10. It shall be lawful for the Court from time to time to make such orders and to give such instructions for the management of the estates and properties and the care of the persons of the wards thereof, or of any of them, as to such Court shall seem fit, and from time to time to alter, vary or revoke any such orders or instructions, provided that such orders be not inconsistent with the provisions of this Act or of any law for the time being in force, or of any orders which may from time to time be made by the Lieutenant-Governor under the provisions of this Act, or of any orders issued by the Board of Revenue.

PART IV.

Powers and Duties of Collectors.

When Collector to have charge of ward.

11. When the estate or lands of a ward are situated within one district only, the Collector of such district shall exercise the duties of the Court with respect to the ward and to his moveable and immoveable property.

When Court to appoint Collector to have charge of ward.

12. When the estate or lands of a ward are situate within more than one district, but within the same division, the Court in that division shall appoint some one of the Collectors within the division to exercise the duties of the Court with respect to the person of the ward.

Collector to administer estate in his district.

13. When the estate or lands of a ward are situated within more than one district, but within the same division, the Collector of each district shall exercise the duties of the Court with respect to the ward's property situate within his district.

Provided, however, that it shall be lawful to the Court, with the sanction of the Board of Revenue, to entrust to any one Collector the control of the

management of any portion of the ward's property not situate within his own district.

Where estates in several divisions, Court to have charge of ward to be determined by Board of Revenue.

14. When the estate or lands of a ward are situate within two or more divisions, the Board of Revenue shall determine the Court which shall have the charge of the person of the ward.

And such Court shall appoint some one of the Collectors within its own division to exercise the duties of the Court with respect to the person of the ward.

Superintendence of estates and property in different divisions.

15. When the estate or lands of a ward are situate within two or more divisions, the Court of each division and the Collector of each district shall control and superintend the management of such portion of the property as is situate within their jurisdictions.

Provided that the Court to whom the charge of the ward's person has been committed under the preceding section shall exercise a general control over all disbursements and payments connected with the ward's property wherever situate and over the accounts of such property.

Provided, also, that it shall be competent to the Board of Revenue to direct that the Court in charge of the ward shall have the entire control of all or of portions of the ward's property wherever situate, under such form of management as may appear to such Board advisable, or to take any other action which may seem convenient for the due care of the ward's interests and the efficient management of his property.

Collector to seize seals, papers and moveable property.

16. Immediately on an estate being, under the provisions of section 30, declared subject to the jurisdiction of the Court, the Collector shall search for and take possession of all seals and such accounts and papers as it may appear to him advisable to take possession of, and shall, at his discretion, remove them to his own office, or send them to the custody of the Court.

He shall also take possession of all moveable property, and place under proper custody such portion thereof as he may think necessary.

And it shall be lawful for the Collector, in case he has reason to believe that any such seal, account paper or property is in any room, box or receptacle, within any house or on any land in the actual possession of the ward, to break open the same for the purpose of searching for such seal, account paper or property.

Collector to deliver inventory.

17. Every Collector shall, within six months from the date of his taking possession of the property of a ward under the provisions of this Act, deliver to the Court an inventory of all immoveable and moveable property so taken possession of.

Collector to be subject to Court.

18. All orders and proceedings of a Collector, under the provisions of this Act, shall be subject to the revision of the Court, and every person aggrieved

by any such order or proceeding may, within a month from the date of such order or proceeding, prefer an appeal therefrom to the Court in charge of the estate in respect of which such order may have been made or proceeding taken; or in case such order may not have been made in respect to an estate, then to the Court in charge of the ward in respect to whom or to whose property such order may have been made or proceeding taken:

Provided always that it shall be lawful for such Court, if it shall think fit, to revise, modify or reverse any such order or proceeding after the lapse of the said period of one month, whether any appeal shall have been preferred or not.

PART V.

Mode of ascertaining the Ground of Disqualification.

Collector to report disqualification of proprietors.

19. Every Collector, immediately upon his receiving credible information that disqualification under this Act attaches to any proprietor of an estate in his district, shall report the same to the Court of his division, and shall specify the nature of the disqualification.

Proceedings on death of proprietor whose heirs are disqualified.

20. Whenever any Collector shall receive information that any proprietor of an estate within his district has died, and that the heirs of such proprietor are disqualified, it shall be lawful for such Collector to take order for the safety and preservation of any moveable property of such deceased proprietor, and of all deeds, documents and papers relating to any portion of the property of such proprietor, and for that purpose to cause the same or any part thereof to be removed to any public treasury, or to place such guards in charge thereof as to him shall seem fit.

Inquiry in case of females.

21. If any female proprietor shall be reported to be disqualified from incompetency to manage her estate, the Court shall immediately proceed to ascertain whether such proprietor be competent from her capacity and habits of business to manage her own estate, and such Court shall, if satisfied that such proprietor is competent to the management of her own estate, by an order under the seal of such Court, exempt her from the operation of this Act, and if not so satisfied, shall by a like order declare such proprietor to be a ward and shall immediately take charge of her estate under the provisions of this Act.

Inquiry in case of minors.

22. If any proprietor who is not subject to the jurisdiction, as respects infants, of a High Court of Judicature shall be reported to be a minor, the Court shall direct the Collector to proceed to enquire into the age of such proprietor; and for that purpose the Collector shall have power to require the

production in person of such proprietor, if a male, and of all documents from which the truth of such matter may appear, and to take evidence of witnesses upon oath or solemn affirmation.

The Collector shall record such evidence, and report thereupon, and shall submit such report and all evidence taken by him to the Court.

The Court shall thereupon make an order declaring the age of such proprietor, and such order shall be final and conclusive for all the purposes of this Act.

The Court shall retain all documentary evidence filed with such report until the minor shall have attained the age of eighteen years, unless, upon an application made thereto, it shall see fit to allow any such document to be restored to the owner thereof.

Production of minor and order for his temporary custody.

23. The Collector may direct that any person having the unlawful custody or being unlawfully in possession of the person of any minor ward shall produce him or her before the Collector on a day fixed by him, and may make such order for the temporary custody and protection of such minor as may appear proper.

In the event of disobedience to his orders under this section, the Collector may impose a fine not exceeding five hundred rupees, and a daily fine not exceeding two hundred rupees, until the production of the person of the minor.

In the case of a female minor ward she shall not be brought into Court.

Inquiry in case of lunatics, &c.

24. If a proprietor who is not subject to the jurisdiction in lunacy of any or either of the High Courts of Judicature be deemed disqualified on the ground of idiotcy or lunacy, the Court shall order the Collector making such report to apply, in pursuance of the provisions of Act XXXV of 1858, passed by the Legislative Council of India, to the civil Court of the zila within the jurisdiction of which such proprietor may reside.

Proceedings in case of proprietor found lunatic by High Court.

25. If a proprietor shall, under the provisions of Act XXXIV of 1858, passed by the Legislative Council of India, have been found by any High Court of Judicature to be of unsound mind and incapable of managing his affairs, the Court may (subject to the powers of the High Court under the said Act XXXIV of 1858) take charge of the estate and lands of such proprietor situate beyond the local limits of the jurisdiction of such High Court, and deal with the same subject to the provisions of this Act.

Provided that in such case no further proceedings shall be taken under the last preceding section, nor shall it be competent to the Court to appoint a guardian of the person of the said proprietor.

Provided, also, that the surplus-income of the property so taken charge of by the Court, after providing for the discharge of the Government revenue

and the expenses of management, shall be disposed of from time to time in such manner as the said High Court shall direct, and not otherwise.

Proceedings in case of proprietor found lunatic by civil Court.

26. When a proprietor resident beyond the Provinces subject to the Government of the Lieutenant-Governor of Bengal, shall, by a civil Court of competent jurisdiction, under the provisions of Act XXXV of 1858, passed by the Legislative Council of India, have been declared to be of unsound mind and incapable of managing his own affairs, the Court may take charge of the estate and lands of such proprietor situate within the said Provinces and deal with the same subject to the provisions of this Act.

Provided that in such case no further proceedings shall be taken under section 24 of this Act, nor shall it be competent to the Court to appoint a guardian of the person of the said proprietor.

Provided, also, that the surplus-income of the property so taken charge of by the Court, after providing for the discharge of the Government revenue and the expenses of management, shall be disposed of from time to time in such manner as the said civil Court shall direct, and not otherwise.

Civil Court to make enquiry regarding disqualification on ground of natural or acquired defect or infirmity.

27. If a proprietor resident without the local limits of the jurisdiction of the High Court be deemed to be disqualified on the ground of some natural or acquired defect or infirmity, other than unsoundness of mind, the Court shall order the Collector making the report to apply to the civil Court within whose jurisdiction such person may be residing, and upon such Collector so applying, such civil Court shall institute an enquiry for the purpose of ascertaining whether such person is or is not subject to such disqualifying defect or infirmity.

Proceedings in case of defect or infirmity when proprietor in jurisdiction of High Court.

28. If a proprietor resident within the local limits of the jurisdiction of the High Court of Judicature at Fort William in Bengal, or resident beyond the Provinces subject to the government of the Lieutenant-Governor of Bengal, shall be reported by a Collector to be disqualified by reason of some natural or acquired defect or infirmity, other than unsoundness of mind, the Court within whose division the estate or lands of such proprietor are situate, shall order the Collector making such report to apply to the civil Court of the twenty-four Parganas; or to such other civil Court as the Lieutenant-Governor, on application made to him by the Collector in that behalf, may determine.

Such civil Court shall thereupon enquire into, and determine the question as to the alleged disqualification, and the provisions of sections 4, 7 and 22 of the said Act XXXV of 1858 shall apply to such enquiry.

Form of proceeding in such cases.

29. When any enquiry is instituted before a civil Court under section 27 or section 28 of this Act, such Court shall, for the purposes of making such enquiry, have such and the same or the like powers and authorities, and shall proceed in such and the same or the like manner and form, as in an dby the

said Act XXXV of 1858 are provided for making the enquiries in and by the same Act directed to be made.

The civil Court shall transmit to the Court by which any enquiry under section 24 or 25 shall have been directed, a copy of the order made on each such enquiry, and the Court shall thereupon, in case the proprietor shall have been found by the civil Court to be disqualified, treat such proprietor as subject to its superintendence and jurisdiction.

Declaration of disqualification.

30. Whenever it shall have been determined under the provisions aforesaid that the proprietor of an estate is disqualified, the Court shall make an order declaring such estate to be subject to the jurisdiction of the Court, and directing charge of such proprietor and of his property to be taken, and the Collector of every district within which there may be any property of the ward shall, as soon as conveniently may be, take possession of such property, and the Court shall be held to be in charge of such property from the time when possession shall have been so taken.

Collector to report particulars of estates of disqualified persons.

31. Every Collector in charge of a ward shall forthwith report to the Court in charge of such ward the condition of such ward, the particulars of his property, real and personal, so far as the same can be ascertained, and the persons who respectively may appear to be most eligible to be appointed manager and guardian, with the grounds of such opinion.

Provided always that when a guardian of a minor ward shall have been appointed by will, such person shall be appointed guardian by the Court, unless the Board of Revenue, after a report received from the Court, and after calling on the testamentary guardian to show cause, shall consider him disqualified or unfit.

PART VI.

Allowance for Support of disqualified Proprietors.

Allowance for ward.

32. The Court shall allow for the support of each ward, and of his or her family, such monthly sum as may seem fit with regard to the rank and circumstances of the parties and their indebtedness or freedom from debt.

PART VII.

Appointment and Duties of Managers and Guardians.

Offices of manager and guardian distinct.

33. The offices of manager and guardian for wards shall be deemed to be wholly distinct.

Duties of

34. When the offices of manager and guardian are vested in different per-

sons, the manager shall have the care of the moveable and immoveable property of such ward, save such property as may be under the immediate charge of any Collector, and the guardian shall have the superintendence and care of the person and maintenance of the ward. manager and guardian respective

35. It shall be lawful for the Court in charge of a ward, if it shall think fit, to appoint the same person to be guardian and manager; but in every case where one person shall be appointed to be both manager and guardian, he shall render all such accounts, and perform all such duties as in and by this Act are required from manager and guardian respectively and severally. Power to appoint one person to be manager and guardian.

36. Every manager and every guardian shall sign and seal all papers, deeds, documents and writings which may be executed by him by virtue of his office with his own name and seal; and shall add to his name his description of manager or guardian of the ward for whom he may act as the case may be; and every manager shall deliver to the Collector in charge of the estate of which he is a manager, and every guardian shall deliver to the Collector in charge of the ward, all family-seals belonging to the ward which may come to his power or control, and such seals shall be deposited wherever the Court shall order. Documents be executed by manager and guardian.

37. Every manager of the estate of any ward shall, subject to the approbation of the Board of Revenue, be appointed by the Court in charge of such estate, and his commission shall be authenticated by the official seal of such Court. Appointment of manager of estate.

Provided, however, that whenever any ward may have estates in more than one division, the manager appointed by the Court in charge of such ward shall be appointed manager of all other estates of such ward by the respective Courts in and for the divisions in which such estates respectively are situate; but any such Court may, with the assent of the Board of Revenue, appoint a separate manager for the estate or estates under its charge, or a sub-manager who shall act under the orders of the manager.

38. Every manager of an estate, previous to the receipt of his commission, shall give security for the due performance of his duty as such manager, and shall execute an agreement with the Collector for the time being in the form in schedule (A). Manager to give security.

Provided that, with the assent of the Board of Revenue, such security may be dispensed with.

Provided, also, that no security shall be required from a manager if he be the testamentary guardian.

39. The manager of every estate shall receive from such estate such remuneration, by salary, commission or otherwise, as shall be fixed and determined by the Court with the assent of the Board of Revenue. Remuneration of manager.

Provided, always, that it shall be lawful for the Court, with similar assent, by an order to alter or vary such remuneration, if it shall seem just and expedient so to do.

Application of penalties.

40. All monies which may be recovered from any manager under the provisions of his obligation, shall be carried to the credit of the estate of the ward.

Appointment of officers.

41. An establishment of necessary officers to act under the manager or sub-manager shall be fixed by the Court in charge of the estate.

The Collector, after consultation with the manager, shall nominate the persons to be employed on such establishment, subject to the approval of the Court.

Managers, &c., to be deemed to be in pay of Government.

42. The manager and all persons employed in the management of the estate of any ward, shall be deemed to be officers in the pay of Government, in respect of their employment and remuneration, and every manager, sub-manager or guardian under this Act shall be held to be a public accountant under the provisions of Act XII of 1850, passed by the Legislative Council of India.

Power to remove manager.

43. The Court by which any manager or guardian or other person has been appointed, may, if it shall think fit, with the assent of the Board of Revenue, remove such manager or guardian or other person, and may order the person so removed to make over, within a time fixed by the Court, any property in his hands to such person as the Court may direct to receive the same, and to account to such person for all monies received and disbursed by such manager or guardian; and every such order may be enforced by the Court by the imprisonment in the civil jail of the person disobeying the same, and by attachment of his property, and keeping it under attachment until the accounts or property shall have been delivered up.

The Collector in charge of any property of the ward, may, if he shall think fit, remove any officer appointed by himself, and may order any officer so removed to deliver his accounts or any property in his hands, and such order shall be enforced in manner aforesaid, and the diet-money of every person imprisoned under this section shall be paid out of the proceeds of the estate.

Provided that every order for imprisonment by the Court shall be subject to appeal to the Board of Revenue.

Manager or guardian removed, to remain liable to account.

44. Every manager, sub-manager or guardian, who may be removed or otherwise cease to fill such office, shall, notwithstanding his removal or cesser of office, continue liable to account to the Court for his receipts and disbursements during the period of his management or guardianship, or tenure of office; and when any present manager, sub-manager or guardian, or past or present officer subordinate to a manager, sub-manager or guardian, shall wil-

Power to fine recusant and

fully neglect or refuse to deliver his accounts or any property in his hands within such time as shall be fixed by the said Court, the Court may impose on him a fine not exceeding five hundred rupees, and in addition to any other remedy for the recovery of such fine, every such fine shall be a demand recoverable as an arrear of revenue. negligent managers, &c

45. The manager appointed by the Court shall have the care of the entire property, real and personal, of the ward, save estates or lands to which another manager may be appointed, or which are under the direct management of a Collector. Duties of manager.

He shall have the exclusive charge of all lands, save as aforesaid, whether málguzárí or lákhiráj; as well as of all houses, tenements, goods, money and moveables of whatever nature belonging to the ward whose estate may be committed to his charge, excepting only the house wherein such ward may reside, the moveables wanted for his use and the money allowed for the support of the ward and the members of his family entitled to a provision; but every manager shall be subordinate to the Court and to the Collector under whose superintendence the estate or lands may be.

46. All monies received by any manager of an estate shall be applied by him in the first place in payment of the allowance fixed for the support of the ward and of all charges of management, and subject thereto in or towards the discharge of the monthly kists of Government revenue. Application of monies received by manager.

47. In case any attachment be issued from any civil Court against any sum of money which may be in the hands of the Collector or manager, the payment of the charges of management and of all Government revenue which may for the time being be due from the estate of such ward shall have priority over such attachment. Priority of Government revenue and cost of management.

And no payment shall be made to the attaching creditor from any such sum until full provision shall have been made for the payment of such charges and revenue.

48. Every manager shall deliver a monthly account-current, accompanied with vouchers, of his receipts and disbursements to the Collector in charge of the estate, who shall audit the disbursements therein specified. Manager to deliver accounts.

49. Whenever upon any such monthly account-current there may be any surplus after making the several payments directed in section 46, such surplus shall, at the Collector's discretion, with the sanction of the Court, be carried to the credit of the ward, or shall be applied in liquidation of any debt which may affect the property of the ward or any part thereof, and subject thereto, the same shall, if no such debts be outstanding, be expended by the manager, subject to the directions of the Court, for the improvement of the lands of the ward, or otherwise for the benefit of the property under his charge. Application of surplus.

Power to invest surplus.

50. Whenever the Court in charge of a ward shall think it unnecessary or unadvisable to appropriate any surplus-receipts to the improvement of the lands already under the manager's charge, the same shall, by the direction and with the privity of the Court, be applied in the purchase of other landed property, or at interest upon Government security, or in the purchase of Government paper securities, or such other securities, stocks or shares guaranteed by the Government of India and approved of by the Board of Revenue, as to the Court shall seem fit.

Custody of securities and papers.

All title-deeds and documents relating to any land purchased under the provisions aforesaid, and all Government paper securities, and other securities and shares as aforesaid, shall be deposited in such public treasury as the Court may direct.

The Court shall obtain the treasurer's receipt for all deeds, documents and papers when deposited in any such treasury, and shall transmit an attested copy thereof to the Collector in charge of the estate, to be delivered by him to the manager.

Every manager of an estate, and every guardian in charge of a ward, shall deliver any title-deeds, or Government or other securities belonging to the estate or property of a ward under his charge to the said Collector in charge of such estate, and such Collector shall return a receipt for the same and transmit such deeds and securities to the Court in charge of the ward, or deposit them in his public treasury as above directed.

All interest or dividends which may become payable on Government or other securities or shares shall be paid to the manager and shall be accounted for by him in his monthly account-current.

Manager to deliver annual accounts.

51. In addition to the monthly account-current required in section 68, the manager of every estate, at the expiration of every year, shall deliver to the Collector in charge of such estate an annual account of all monies which have come to the hands of such manager during such year on account of such estate or on account of any property of such ward of which such Collector may have charge, and of the application and disposal of all such monies; and the said Collector shall audit the disbursements, and take order that the whole of the surplus-receipts be duly appropriated in the manner specified in sections 49 and 50.

Management of estate when funds deficient.

52. Whenever it shall appear to the Court that the produce of the estate of any ward or of any other property of the ward is insufficient to provide for the expenses of a separate establishment for the management in conformity with sections 34 and 41 of this Act, the Court shall take such order as from the circumstances of the case may appear best calculated for providing for the security of the public revenue and for the interests of the ward.

53. When portions of the same estate of any ward may be situated in different districts of the same division, the monthly and annual accounts of all such estates or portions of an estate required to be furnished by the manager, shall be rendered to the Collector in charge of the ward. Person to whom accounts are to be furnished.

When the property of the ward consists of different estates or lands or parts of the same estate or land in different divisions, it shall be optional with the Board of Revenue to order that the accounts for the lands in each district shall be submitted to the Collector of that district, or to the Collector in charge of the ward, or to the manager or sub-manager.

54. Whenever two or more estates belonging to different wards are so situated that they can be conveniently superintended by one manager, the Court may, if it shall see fit, entrust them, or so many of them as may seem convenient, to the management of the same manager. Power to place several estates under one manager.

55. No person who would be the next legal heir of a ward or would otherwise be immediately interested in outliving such ward, shall be appointed to be his guardian. No person to be guardian who can succeed to ward.

Provided, however, that this section shall not apply to the mother of a ward or to a testamentary guardian appointed under section 31.

56. Every guardian shall be appointed in the manner hereinbefore provided for the appointment of managers. Mode of appointing guardians.

Provided always that none but a female shall be appointed guardian of a female ward.

Provided, also, that none but a person of the same religion, if Hindú or Muhammadan, shall, except in the case of a testamentary guardian, be appointed guardian of a female ward, preference being given to female relatives if any such be eligible.

Every guardian shall be subordinate to the Court and to the Collector exercising the duties of the Court under sections 11, 12, 14 and 15.

57. It shall be lawful for the Court to empower any female ward herself to receive and disburse the allowance fixed for her maintenance, and in such case no guardian shall be appointed, or the guardian, if already appointed, shall be removed. Power to dispense with guardian of female ward.

58. The Court may order reasonable remuneration to be paid from the allowance fixed for the maintenance of any ward to the guardian of such ward. Remuneration for guardian may be ordered.

59. The guardian, previous to the receipt of his commission, shall give security for the due performance of his duty during the continuance of it, and shall execute an agreement with the Collector for the time being in charge of the ward in the form in schedule (B). Guardian to give security.

Provided that, with the assent of the Board of Revenue, such security may be dispensed with.

Provided, also, that no security shall be required from a testamentary guardian.

Establishment of servants to be fixed.

60. An establishment of necessary servants to act under the guardian shall be fixed by the Court, and the expense thereof shall be defrayed from the allowance fixed for the support of the ward.

Custody of persons of wards.

61. The right to the custody of the person of every ward not being an adult female, is hereby vested in the person who for the time being may be guardian of such ward under this Act, or, in the absence of such person, in the Collector in charge of such ward.

Provided always, that no guardian shall be appointed nor continued for a female ward if she has an adult husband.

Guardian to give account of expenses.

62. The guardian shall deliver a monthly account-current accompanied by vouchers, of his receipts and disbursements to the Collector in charge of the ward, who shall audit the disbursements therein specified, and see that the receipts have been fairly and duly appropriated.

The guardian shall also deliver an annual account-current which shall be in like manner audited by such Collector, and if there shall be any surplus remaining in the hands of such guardian, which such Collector may think unnecessary for the guardian's expenses in the ensuing year, he shall cause the same to be paid into Court to the credit of the ward, and the same shall be applied by the Court for the increase of the property of the ward in manner hereinbefore provided for the application of the surplus of the income of such minor.

Saving of Act XXXV of 1858.

63. Nothing in the preceding sections shall be held to interfere with the provisions of the said Act XXXV of 1858.

PART VIII.

Education of Minors.

Education of minor wards.

64. The general superintendence and control of the education of every minor ward is hereby vested in the Court.

Residence of minors.

65. It shall be lawful for the Court to direct that any such minor, if a male, shall reside either with or apart from his guardian at the sadr station of the district or at any other place approved of by the Board of Revenue, and shall attend, for the purposes of education, such school or college as to the Board of Revenue may seem expedient, or be educated either at his own home or elsewhere by a private tutor, and to make such provision as may be necessary for the proper care and suitable maintenance of the said minor whilst attending such school or college.

66. All charges and expenses which may be incurred on account of any such minor ward under the provisions of this Act for college or school-fees, or for other charges of tuition or education, or by reason of his residence in any place other than his own home, or otherwise, shall be defrayed from the profits of the property. Expenses of education of minors.

PART IX.

Debts of the Estates.

67. Every manager to whom the existence of any debt payable out of any estate or out of any other property in his charge under this Act may become known, shall immediately report the same to the Collector, who shall without delay report to the Court the nature and amount of such debt, and in such report shall state his opinion respecting the best mode of satisfying the same. Debts to be reported to Court.

68. With the consent of the Board of Revenue it shall be competent to the Court in charge of any ward, in any case in which it shall appear expedient, to sell or mortgage any property of a ward for the purpose of liquidating any just debts due in respect of the property[a] of such ward, or for the purpose of raising any money for the cost of any suit in which the ward may be a party, or for the purchase of any share of any property of which the ward may be a co-sharer, and for the default in payment of the revenue of which the ward's share may, under the provisions of Act XI of 1859,[b] passed by the Legislative Council of India, be liable to sale, and for the purpose of any such sale or mortgage, any conveyance executed by the Collector in charge of the ward, under the order of the Court, shall be valid to pass the estate and inheritance, right, title and interest in the property in such conveyance mentioned of such ward and of every person whom such ward, if not disqualified, could have bound by a conveyance made for the payment of the debts of the ancestor from whom such property descended. Power of sale and mortgage for payment of debts.

If the property so ordered to be sold or mortgaged be part of an estate of which such ward be the sole proprietor, or if it be a share of an estate separated under the said Act XI of 1859, and if it shall appear to the Court that it will be to the interest of such ward or of the Government that such part or share be formed into a separate estate prior to such sale or mortgage being effected, it shall be competent to the Court to direct the Collector within whose jurisdiction such part or share be situate, to partition it off into a

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[a] As to the power of the Court of Wards to alienate under this section, see the opinion of the Advocate General (Mr. Graham), 7 Bengal Law Reports, Revenue Circulars, p. 33.

[b] See *supra*, p. 393.

separate estate, and such partition shall be conducted in accordance with the law which may be for the time being in force for the partition of estates.

PART X.

Suits.

Manager to be next friend or guardian in suits by or against ward.

69. In every suit brought by or against any ward in any Court other than the High Court, he shall be therein described as a ward of Court; and in case he have a manager of his estate or estates as hereinbefore provided, such manager shall in such suit be named as next friend or guardian in the suit of such ward, and shall in such suit represent such ward, and no other person shall sue as next friend or be named as guardian in the suit by any civil Court in which such suit may be pending.

But the Court of Wards may by an order nominate or substitute any other person to be next friend or guardian in any such suit; and upon receiving a copy of any such order of substitution, the Court in which such suit shall be pending shall substitute the name of the next friend or guardian in the suit so appointed, for the name of the manager of the ward's property.

If the ward have no manager, the Collector in charge of such ward shall be named as next friend or guardian in the suit of such ward.

Payment of costs of manager.

70. If in any suit instituted by or against a ward any civil Court may decree any costs against the manager as guardian or next friend, or against any other person nominated as guardian or next friend under the provisions of section 69, the Court shall cause such costs to be paid out of any property of the ward which for the time being may be in its hands.

Process against wards to be served through Court.

71. Every process which may be issued out of any civil Court other than the High Court against any ward, shall be served, through the Court, upon the next friend or guardian in the suit of such ward, and upon the Collector in charge of the estate of such ward.

Suit on behalf of minor.

72. No suit shall be brought on behalf of any ward unless the same be authorized by some order of the Court in charge of such ward:

Provided that nothing herein shall be deemed or taken to apply to any suit instituted or depending in the High Court.

Power to compromise suits by or against ward.

73. It shall be lawful for the Court to submit to arbitration, or otherwise to compromise, any claim which may be made by or on behalf of or against any ward, and every such submission to arbitration or compromise shall have the same force and effect as if the ward were not subject to any disqualification, and had personally entered into such submission or compromise; and for the purpose of any such compromise, any conveyance executed by the Collector under the orders of the Court shall be valid to pass the estate and inheritance,

right, title and interest in the property therein comprised of the ward, and of all persons whom such ward, if not disqualified, could have bound by a conveyance made for the payment of the debts of the ancestor from whom such property descended.

PART XI.

Adoption.

4. No adoption by any ward and no written or verbal permission to adopt given by any ward is to be deemed valid without the previous consent of the Lieutenant-Governor, on application made to him through the Court and Board of Reve

Adoption by ward invalid without consent of Lieutenant-Governor.

PART XII.

Miscellaneous.

75. Farmers and others holding tenures in estates in charge of the Court direct from the Collector shall be subject to the same rules, Regulations and Acts as are applicable to other persons holding similar tenures and interests under Collectors of the land-revenue; but when the farm is held from the manager, these rules, Regulations and Acts shall not apply.

Tenures of wards' estates under Collector.

76. When a ward's property is managed wholly or in part under the system of farms held direct from the Collector, or is managed direct by the Collector, the Collector shall prepare and submit to the Court the same accounts that are ordered to be prepared by the manager when the property is managed by a manager.

Collector to submit same accounts as manager when estate managed by himself.

77. Whenever an estate shall cease to belong to a disqualified proprietor, or it shall be considered advisable to remove an estate from the superintendence and jurisdiction of the Court, the Court shall make an order that the superintendence and jurisdiction of the Court over such estate shall cease on a date not more than sixty and not less than fifteen days from the date of such order.

Procedure on termination of wardship.

Immediately on issue of this order a copy of such order shall be posted up in the office of the Court, and copies thereof shall be sent to the Collector in charge of the ward and to every Collector in charge of any estate or property of such ward, and every such Collector shall forthwith, on receipt of such copy, notify the intended cessation of the Court's charge by a notice put up in such Collector's office, and in some conspicuous place in the estate.

78. When an estate under the Court of Wards is released from the superintendence of such Court, a list in duplicate of the papers to be delivered

Accounts and lists to be furnished on

termination of wardship.

and of all immoveable and moveable property which may be in the custody or charge of the Court or of any Collector or manager shall be made by such officer of the Court as the Court may direct, and such papers and moveable property shall be given up to the late ward or other person who shall succeed to his estate, with one of the lists, on a receipt being affixed to the other, signed either by the late ward or the person who shall succeed to his estate, or by some person authorized to act on his behalf; also a complete account of the management, while under the superintendence of the Court, of the property of the proprietor of such estate from the beginning, shall be prepared by the manager or Collector (as the case may be) and submitted to the Court, and a copy thereof given to the late ward, or to the person who shall succeed to his estate.

Where succession litigated, Court may continue possession.

79. If on the death of any ward the succession to his property or any part thereof be in dispute, it shall be competent to the Court, if it think fit, to continue the charge and management of such property or part thereof under the provisions of this Act, until an order for making over the possession and management of such estate shall have been made by a competent Court.

Power to sell property succession to which is in dispute.

80. If within one year after the death of a ward the succession to whose property or some part thereof is in dispute, no suit be instituted to determine the right to the property so in dispute, it shall be lawful to the Court, with the sanction of the Board of Revenue, either to make over such property to any claimant thereof, or to cause the same to be sold by public auction, and the proceeds thereof, after deducting therefrom sums payable to Government, to be invested in Government promissory notes: such notes to be held by the Court in trust for the person who may be entitled thereto.

Effect of sale.

81. Every sale to be made in pursuance of the last preceding section shall be valid to pass the right, title and interest in the property so sold, of such deceased ward and of every person claiming by, through, or under, such deceased ward, or by way of succession, inheritance, remainder or reversion depending on the estate of such ward.

Power to sue Collector, guardian or manager.

82. If a proprietor shall have been declared disqualified and shall have been afterwards restored, or if the estate of any disqualified proprietor shall legally devolve to, or come into the possession of, any person not disqualified for the management of it, such proprietor or his heir or successor is declared entitled to sue any person professing to have acted under the authority of the Court, for any acts done by them respectively whilst the estate may have been under the charge of the Court of Wards in opposition to this or any other Act that may be hereafter enacted regarding disqualified proprietors and their estates, or to any order issued by the Court of Wards, or for any breach of their respective trusts.

83. In cases instituted under this Act, the Court[a] shall be guided by the procedure prescribed in Act VIII of 1859 passed by the Legislative Council of India in so far as the same shall be applicable and material; and any order made by the Court may be enforced as if such order had been made in a regular suit. Procedure in cases instituted under Act.

84. It shall be lawful for the Lieutenant-Governor to make such general rules for the better fulfilment of the purposes of this Act as he may think fit (provided such rules be not inconsistent with the provisions of this Act), and from time to time to alter, vary or revoke any of such rules; and such rules, or alteration or revocation of rules, shall be published in the *Calcutta Gazette*, and from and after such publication thereof, shall have the same force and effect as if they were inserted herein. Power to Lieutenant-Governor to make rules.

85. The powers and authorities vested by the provisions of this Act in the Court shall be possessed and exercised subject to the entire control and supervision of the Board of Revenue and of the Lieutenant-Governor. Court to be subject to Board of Revenue and Lieutenant-Governor.

86. On and after the 1st day of June 1870, Regulation X of 1793, Regulation L of 1793, Regulation LV of 1795, section 2 of Regulation III of 1796, section 26 of Regulation VII of 1799, so far as regards the appointment of managers by the Collectors, Act XXVI of 1854, passed by the Legislative Council of India, so far as it relates to the Provinces under the control of the Lieutenant-Governor of Bengal, and section 25 of Act XL of 1858,[b] passed by the same authority, so far as the same relates to any guardian appointed under this Act; and also Regulation VI of 1822, so far as it relates to the Provinces under the control of the Lieutenant-Governor of Bengal—shall stand and be repealed save so far as regards estates, properties and wards which before the said first day of June 1870 may be under the control of the Court of Wards, but on and after the said first day of June 1870, all further proceedings respecting such estates, properties and wards shall be had in the Courts created by this Act as if such estates, properties and wards had been brought under the superintendence of the Court under the provisions of this Act, and all the powers and authorities by this Act conferred upon the Lieutenant-Governor of Bengal, the Board of Revenue, the Court, the Collector, the manager or the guardian, shall in like manner apply to such estates, properties and wards. Repeal of laws.

87.—[*Repealed by Act No. XII of 1873.*]

88. This Act may be called "The Court of Wards' Act, 1870." Short title.

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[a] *i. e.*, the Court of Wards: see definition in section 1.

[b] See *supra*, p. 344.

SCHEDULE A—(*referred to in se*

FORM OF AGREEMENT TO BE EXECUTED BY A MANAGER.

I, *A. B.*, having voluntarily taken on myself the management of the estate of *C.*, disqualified proprietor of *D*, do hereby engage with the Collector of *E.*, that I will manage the said estate diligently and faithfully for the said proprietor, and will use every means in my power to improve the same for his [*her*] benefit, and will act in every respect for his [*her*] interest in like manner as if the estate were my own. I also engage with the said Collector to observe in all respects the provisions regarding managers contained in Part VII of Act IV of 1870 of the Council of the Lieutenant-Governor of Bengal and that I will derive no personal advantage from the management beyond the remuneration granted to me as manager. In the event of any breach of trust, neglect or omission as manager being proved against me, I will pay to the said Collector Rs. as liquidated damages.

SCHEDULE B—(*referred to in section 59*).

FORM OF AGREEMENT TO BE EXECUTED BY A GUARDIAN.

I, *A. B.*, having voluntarily taken upon myself the guardianship of *C.* disqualified proprietor of *D.*, do hereby agree with the Collector of *E.*, that I will execute the trust committed to me diligently and faithfully, and according to the provisions regarding guardians contained in Part VII of Act IV of 1870. of the Council of the Lieutenant-Governor of Bengal, and that I will derive no advantage directly or indirectly from the ward's allowance beyond the remuneration granted me as guardian. In the event of any breach of trust, neglect or omission being proved against me, I will pay to the said Collector rupees as liquidated damages.

ACT No. V of 1870.

Received the Lieutenant-Governor's assent on the 11th of June 1870, and the Governor General's assent on the 12th of August 1870.

An Act to appoint Commissioners for making improvements in the port of Calcutta.

Preamble.

WHEREAS it is expedient to make further provision for improvements in the port of Calcutta, and for that purpose to appoint Commissioners for making such improvements; It is enacted as follows:—

Interpretation.

1. The following words and expressions shall have the meanings hereby assigned to them, unless where a contrary intention shall appear from the context:—

"The Commissioners."

the words "the Commissioners" shall mean "the Commissioners for making improvements in the port of Calcutta" hereinafter incorporated:

"Commissioner."

the word "Commissioner" shall mean a member of the said corporation:

"Vessel."

the word "vessel" shall include any ship, barge, boat, raft or craft, or any other thing whatever, designed or used for the transport upon water of passengers or goods:

"Land."

the word "land" shall include the bed of the river below high-water mark:

"Pier."

the word "pier" shall include a floating pier:

"Wharf."

the word "wharf" shall include any bank of the river which may be improved to facilitate the loading or unloading of goods and any wall adjoining the river:

"Goods."

the word "goods" shall include wares and merchandize of every description:

"Port."

the word "port" shall mean the port of Calcutta.

Power to nominate Commissioners.

2. It shall be lawful for the Lieutenant-Governor of Bengal, at any time after the commencement of this Act, by order published in the *Calcutta Gazette*, to nominate and appoint persons in number not more than twelve nor less than nine,[a] to be Commissioners for making improvements in the port of Calcutta, and by the same or any other order published in like manner to nominate one of such persons to be chairman and another of such persons to be vice-chairman.

Term of office.

3. Every person who shall be appointed to be a chairman, vice-chairman or Commissioner shall, subject to the provisions hereinafter contained, continue

[a] Bengal Act No. VII of 1871, section 1.

to hold the office to which he shall be appointed for the term of two years, but may at the expiration of such term be re-appointed.

Appointment of successors.

4. The Lieutenant-Governor of Bengal, within one month after any person appointed to be a chairman, vice-chairman or Commissioner under this Act shall have died or ceased to be such chairman, vice-chairman or Commissioner, shall, by an order published in the *Calcutta Gazette*, appoint some other person to be a chairman, vice-chairman or Commissioner, as the case may be, in the place or stead of the person so dying or ceasing to be a chairman, vice-chairman or Commissioner.

Commissioners to be a corporation.

5. The Commissioners for making improvements in the port of Calcutta to be appointed, as hereinbefore provided, and their successors, shall be and they are hereby created a corporation under the name and style of "the Commissioners for making improvements in the port of Calcutta," and they shall have a common seal.

Property of Commissioners to be applied for purposes of Act.

6. All property vested in or acquired by the Commissioners under or by virtue of this Act, and all monies raised by or payable to them under or by virtue of this Act, shall be held in trust and be applied, in the first place, for the payment of all sums which from time to time shall be due and payable to the Secretary of State for India in Council under the provisions of section 7 of this Act, or for monies advanced or applied or to be advanced or applied by or on behalf of the said Secretary of State for India in Council for the improvement of the port of Calcutta, or otherwise under the provisions of Act X of 1866,[a] passed by the Lieutenant-Governor of Bengal in Council, or of this Act, and subject thereto upon trust for the purposes of this Act, and not otherwise.

Amount of debt.

7. There shall be deemed and taken to be due from the Commissioners to the Secretary of State for India in Council, immediately upon the commencement of this Act, the several sums set forth in schedule (A) to this Act annexed, for the lands, works and matters therein respectively set forth, making in the whole the sum of ten lákhs of rupees.

Re-payment of principal sums due.

8. The said amount shall be re-paid by the said Commissioners to the said Secretary of State by triennial instalments of such amount and at such times as in schedule (B) to this Act are appointed for the payment thereof, and every other sum which may become due from the Commissioners to the said Secretary of State shall be in like manner by them re-paid to him in ten equal triennial instalments, each of one-tenth of the amount of such sum, the first of such instalments to be paid on the first day of April which shall be next after the completion of twenty-four calendar months from the day on which such

[a] Repealed by this Act, section 93.

sum shall become due, and the other instalments to be paid respectively on the first day of April in every third year, computing from the day fixed for the payment of the first of such instalments.

Payment of interest.

9. Interest at the rate of four and a half per cent. per annum shall be paid by the Commissioners to the said Secretary of State upon all sums which for the time being may be due to him from them upon the thirty-first day of March and the thirtieth day of September in each year, the first of such payments of interest upon the said sum of ten lákhs to be calculated from the first day of August 1870 and to be made on the thirty-first day of March in the year 1871, and the first of such payments of interest in respect of any other sum which may become due or payable from the said Commissioners to the said Secretary of State to be calculated from the day on which such sum shall become due and to be made on the thirty-first day of March or the thirtieth day of September, whichever may first happen next after such sum shall have become due.

Power to re-pay before due date.

10. Notwithstanding the provisions of section 8, it shall be lawful for the Commissioners, if they think fit, out of any monies which may come to their hands under the provisions of this Act, to re-pay to the said Secretary of State in Council any sum which for the time being may remain due to him under the provisions of this Act for principal, although the time fixed by the said schedule (B) for the re-payment of the same shall not have arrived.

Provided always, that no such re-payment shall be made of any sum less than ten thousand rupees, nor of any sum not being a multiple of ten thousand rupees, and from and after any such re-payment no further sum as interest shall be payable to the said Secretary of State in Council in respect of the sum which shall have been so re-paid.

Duties of Commissioners.

11. The administration of the powers and trusts created and declared by this Act shall, subject to the powers and authorities hereinafter conferred on the Lieutenant-Governor of Bengal, be vested in the Commissioners.

Proceedings not invalidated by vacancy or informality of appointment.

12. No act or proceeding of the Commissioners shall be invalidated or illegal in consequence only of there being a vacancy in the number of the Commissioners at the time of doing or executing such act or proceeding.

And all proceedings of the Commissioners, or of any person acting as a Commissioner in the *bonâ fide* belief that he was duly appointed, shall, notwithstanding it be afterwards discovered that there was some defect in the appointment of the Commissioner or person acting as aforesaid, be as valid as if every such person had been duly appointed to be a Commissioner.

Disqualification of Commissioners.

13. Every person who, at any time after his appointment as a Commissioner, shall be absent from six consecutive meetings without having the permission in that behalf of the Commissioners, or who having such permission

shall be absent from the meetings for a period exceeding a year, and every person who at any time after his appointment as a Commissioner shall accept or agree to accept any office or place of profit under this Act, except the office of chairman or vice-chairman of the Commissioners, or who shall, save with the sanction in writing of the Lieutenant-Governor, participate or agree to participate in the profits of any work done by order of the Commissioners, or be concerned or participate in the profits of any contract entered into with the Commissioners, shall thenceforth cease to be a Commissioner, and his office shall thereupon become vacant;

provided always, that no Commissioner shall vacate his office by reason only of his being a shareholder in any company registered under the provisions of any Act for the registration of joint-stock companies, passed by any Indian legislature or by the Parliament of the United Kingdom, or incorporated by Act of Parliament, Royal Charter or otherwise, with which the Commissioners may enter into any contract, or by reason of his being interested in any loan of money to the Commissioners.

Power to remove chairman, vice-chairman or Commissioner.

14. It shall be lawful for the Lieutenant-Governor of Bengal, by an order under his hand, to direct that any chairman or vice-chairman or Commissioner named in such order shall cease to be chairman or vice-chairman or Commissioner, and thereupon the person so named shall cease to be chairman, vice-chairman or Commissioner as in such order may be directed.

Acting Commissioner may be appointed during absence of Commissioner.

15. When any Commissioner shall depart from Calcutta with an intention of being absent for a longer period than three months, or where any such member shall have been so absent for a period exceeding three months, it shall be lawful for the Lieutenant-Governor of Bengal to appoint some other person to act in the place and room of such absent Commissioner until he shall return to Calcutta, or until he shall cease to be a member.

Salaries and fees of chairman, vice-chairman and Commissioners.

16. It shall be lawful for the Lieutenant-Governor of Bengal, by order in writing from time to time, to determine whether any and what salary and allowances shall be paid to the chairman or vice-chairman of the Commissioners, and whether any and what fees shall be paid to the chairman or vice-chairman and Commissioners for attendance at meetings for transaction of the business of the trust: and in the order directing the salaries and fees to be paid as aforesaid, the Lieutenant-Governor of Bengal may declare any conditions and restrictions upon and under which such salary, allowances and fees shall be payable.

Commissioners may appoint committees.

17. The Commissioners may from time to time, by resolution passed at a meeting, appoint committees of their number for carrying into effect any part of the provisions of this Act, with such powers, and under such instructions, directions or limitations, as by such resolution shall be defined, and on any such

committee three members shall be a quorum, and the Commissioners shall have power to alter or discontinue any such committee.

Establishment of Commissioners to be sanctioned by Lieutenant-Governor.

18. The Commissioners shall from time to time prepare and submit to the Lieutenant-Governor a schedule setting forth the number of officers and servants necessary and proper for carrying out the purposes of this Act, and of the salaries, fees and allowances which it is proposed to assign to such officers and servants, and the Lieutenant-Governor may sanction such schedule, or modify and sanction the same; and every such schedule so sanctioned shall remain in force until some other such schedule shall have been so prepared and sanctioned, and it shall not be lawful for the Commissioners to employ any officer or servant for any office or employment not sanctioned in and by the schedule for the time being in force, nor to pay or allow to any officers or servants any salaries, allowances or fees greater than, or beyond those sanctioned in such schedule.

Provided always that artisans, porters and labourers, and the sardárs of porters and labourers, shall not be deemed to be officers or servants within the meaning of this section.

Commissioners to make rules for appointment of establishment.

19. It shall be lawful for the Commissioners at a meeting from time to time to make rules for appointing the officers and servants to fill the offices and posts mentioned in the schedule for the time being in force under the provisions of the next preceding section, and, subject to the provisions of such schedule, for their necessary remuneration, and for the suspension or removal of any of such persons and the appointment of others in their place, and for the payment of such allowances to the said persons respectively, or in case of absence on leave, such portion of their salaries or allowances, as to them shall seem fit, and from time to time in like manner to alter, vary or revoke any such rules, and to substitute others in the place or stead thereof.

Penalty on officers being interested in contracts.

20. No officer or servant of the Commissioners shall be in anywise concerned or interested in any contract or work made with, or executed for, the Commissioners, and if any such officer or servant be so concerned or interested, he shall be incapable of afterwards holding or continuing in any office or employment under the Commissioners, and shall forfeit and pay the sum of five hundred rupees, which may be recovered by suit by any person, with full costs of suit.

Provided that nothing in this section shall apply to any person by reason only of his being a shareholder in any company incorporated by Act of Parliament or by Royal Charter or otherwise, or registered under any Act for the registration of joint-stock companies, passed by the Parliament of the United Kingdom or by any Indian legislature, which may enter into any contract with the Commissioners or execute any work for the Commissioners.

Penalty for accepting illegal gratification.

21. If any person employed under this Act, not being a public servant within the meaning of section 21 of the Indian Penal Code, shall accept or obtain, or agree to accept or attempt to obtain, from any person, for himself or for any other person, any gratification whatever other than legal remuneration as a reward for doing or forbearing to do any official act, or for showing or forbearing to show in the exercise of his official functions, favour or disfavour to any person, or for rendering or attempting to render any service or disservice to any person with the Commissioners, or with any public servant or with the Government as such, he shall be liable to the same punishment as is in that behalf provided for by the Indian Penal Code in the case of public servants.

Leave of absence to chairman or vice-chairman.

22. It shall be lawful for the Commissioners at a meeting to grant, with the sanction of the Lieutenant-Governor of Bengal, such leave of absence to any salaried chairman or salaried vice-chairman of the Commissioners, and to make such arrangements for carrying on the duties of his office during his absence on leave, as shall to them seem proper.

Any person appointed under this section to act for any such chairman or vice-chairman shall, while so acting, have all the powers and be liable to all the restrictions and limitations which the chairman or vice-chairman would under this Act have and be liable to.

In any case in which leave of absence to any chairman or vice-chairman shall be granted as aforesaid, the Commissioners, at a meeting, may, with the sanction of the Lieutenant-Governor of Bengal, order to be allowed to such chairman or vice-chairman such portion of his salary during absence on leave as shall to them seem proper, and such allowance shall be paid accordingly unless and until the Commissioners at a meeting shall otherwise direct.

Expenditure not to be increased by leave-allowances.

23. Save with the sanction in writing of the Lieutenant-Governor no greater expenditure shall be in any case incurred in the whole by reason of any allowance paid upon the absence on leave of the chairman, vice-chairman or any other officer or servant of the Commissioners, than would have been incurred had no leave been granted.

Meetings of Commissioners.

24. The Commissioners shall meet for the transaction of business once at least in every fortnight.

Such meeting shall be held upon such day and at such hour as the Commissioners shall from time to time determine.

At every meeting of the Commissioners five members shall constitute a quorum.

Emergent meetings may be called.

25. The chairman or, in his absence, the vice-chairman of the Commissioners may, whenever he thinks fit, and shall, upon request made in writing

by three members of the Commissioners, or two members of any committee, call an emergent meeting of the said Commissioners or committee as the case may be.

Who shall preside at meetings.

26. The salaried chairman or salaried vice-chairman, as the case may be, of the Commissioners, shall attend all meetings of the Commissioners held under this Act, unless prevented by sickness or other reasonable cause, and the chairman or, in his absence, the vice-chairman shall preside at every such meeting.

In the absence of both the chairman and the vice-chairman, the Commissioners present at any meeting may choose one of their number to preside.

The president of any meeting at which a quorum of the Commissioners shall be present, may, with the consent of the meeting, adjourn the meeting from time to time and from place to place.

Minutes of proceedings of Commissioners to be kept and to be open for inspection.

27. Minutes of the proceedings of all meetings of the Commissioners under this Act shall be drawn up and fairly entered in a book to be kept for that purpose, and shall be signed by the president after each meeting; and the said minutes shall at all reasonable times be open at the office of the Commissioners to the inspection of any Commissioner without charge.

Poll how to be taken.

28. If a poll be taken at any meeting of the Commissioners, the votes of the Commissioners present shall be taken by the president, and the resolution supported by the greater number of votes given at such poll shall be deemed to be the resolution of the Commissioners at such meeting.

The president shall have a second or casting vote in all cases of equality of votes.

Copy of minutes to be preserved in Bengal office.

29. A copy of the minutes of every meeting of the Commissioners shall, as soon as conveniently may be, be transmitted to such Secretary of the Lieutenant-Governor of Bengal as he shall from time to time appoint for that purpose, and shall be preserved in the records of the office of such secretary.

Chairman may exercise certain powers of Commissioners.

30. All the powers, authorities and duties in and by this Act conferred or imposed upon the Commissioners may be exercised and performed by the salaried chairman or salaried vice-chairman, save the powers, authorities and duties by this Act or by any rule, bye-law or order made under the provisions of this Act conferred or imposed on or restricted to the Commissioners at a meeting.

Powers of Commissioners as to property.

31. The Commissioners shall, for the purposes of this Act, have power to acquire and hold immoveable or moveable property, whether within or without the limits of the port, by conveyance, gift, lease, assignment or sale from the Governor General in Council, or the Lieutenant-Governor of Bengal, on

behalf of the Secretary of State for India in Council, or any corporate body, or any registered joint-stock company or private person, and they shall also have power at a meeting to lease or sell any moveable or immoveable property which may have become vested in or been acquired by them, but which is no longer required for the purposes of this Act.

Provided always, that no such sale or other alienation or lease of any immoveable property for any estate or interest exceeding the term of ten years shall be valid unless the sanction of the Lieutenant-Governor of Bengal to such sale, alienation or lease shall be first had:

Property vested by Act IV of 1869 in Secretary of State to vest in Commissioners.

32. All property which under and by virtue of Act IV of 1869 [a] passed by the Lieutenant-Governor of Bengal in Council became vested in the Secretary of State for India in Council shall, from and after the time when this Act shall come into operation, be, and the same is hereby, vested in the Commissioners subject as in the said Act IV of 1869 is mentioned.

Commissioners not to demise, &c., tolls and rates without sanction.

33. It shall not be lawful for the Commissioners to demise, farm, sell or alienate any power which by or under this Act may become vested in them of levying tolls, fees, wharfage or rent, rates of charges, unless the assent in writing of the said Lieutenant-Governor of Bengal to such demise, farm, sale or alienation shall have been first had and obtained.

Power to contract.

34. The Commissioners at a meeting may enter into contracts with any body corporate, registered joint-stock company or private person, for the execution or supply by them or him of any works, labour, materials, machines, stores or for other matters necessary for carrying into effect the trusts and purposes of this Act:

Provided always, that no contract under or by virtue of which a sum greater than fifty thousand rupees may in any event be payable by the Commissioners, shall be valid without the assent in writing of the Lieutenant-Governor of Bengal.

Works to be sanctioned by Lieutenant-Governor.

35. No new work the estimated cost of which shall exceed two thousand rupees shall be commenced by the Commissioners, nor shall any contract be entered into by the Commissioners in respect of any such new work, until a plan and estimate of such work shall have been determined on and approved by the Commissioners at a meeting, and in case the estimated cost of any such new work shall exceed ten thousand rupees, it shall not be commenced until such plan and estimate shall have been submitted to the Lieutenant-Governor of Bengal, and sanctioned by him in an order published in the *Calcutta Gazette*, and in case the estimated cost of any such new work shall exceed two lákhs of rupees, the said Lieutenant-Governor shall not sanction the same until such

[a] Repealed by this Act.

plan and estimate shall have been submitted to the Governor General of India in Council and approved by him.

Commissioners may compound for breach of contract, &c.

36. It shall be lawful for the Commissioners, at a meeting, to compound or compromise for or in respect of any claim or demand arising out of any contract entered into by them under the authority of this Act, or in respect of any action or suit instituted by or against them, for such sum of money or other compensation as they shall deem sufficient.

Mode of executing contracts.

37. The salaried chairman or salaried vice-chairman may, for and on behalf of the Commissioners, enter into any contract or agreement whereof the value or amount shall not exceed one thousand rupees, in such manner and form as according to the law for the time being administered by the High Court of Judicature at Fort William in Bengal would bind him if such contract or agreement were on his own behalf; but every other contract and agreement by or on behalf of the Commissioners shall be in writing and signed by the salaried chairman or salaried vice-chairman and by two other Commissioners, and shall be sealed with the common seal of the Commissioners, and no contract nor agreement not executed as in this section is provided shall be binding on the Commissioners.

Acquisition of land.

38. When the Commissioners are unable to acquire by agreement any land or building required for the purposes of this Act, the Lieutenant-Governor of Bengal in his discretion may declare that the land or building is required for a public purpose, and may order proceedings to be taken for obtaining possession of the same for Government, and for determining the compensation to be paid to the parties interested, according to any law in force for the acquisition of land for public purposes.

Such land or building when acquired shall be conveyed to the Commissioners on their paying the compensation awarded and all costs connected therewith.

General nature of work under Act.

39. The works to be constructed and carried out by the Commissioners under the provisions of this Act may include:—

(1)—wharves, quays, stages, jetties and piers within the port, with all necessary and convenient arches, drains, landing-places, stairs, fences and approaches:

(2)—tramways, warehouses, sheds, engines and other appliances for conveying, receiving and storing goods and merchandize landed or to be shipped:

(3)—laying down moorings for carrying out the purposes of this Act: and the erection of cranes, scales and all other necessary means and appliances for loading and unloading vessels:

(4)—reclaiming, enclosing and raising any part of the river-bank or of

the river-bed within the port which may be necessary for the execution of the works authorized by this Act, or otherwise for the purposes of this Act:

(5)—the construction and application of dredges, and other machines for cleaning, deepening and improving the river-bed within the port:

(6)—the construction of such works without the limits of the port as shall be necessary for the protection of works executed under this Act: and all such other works and appliances as may in the opinion of the Commissioners at a meeting be necessary for carrying out the purposes of this Act.

Power to procure and charge for steam-tugs.

40. It shall be lawful for the Commissioners at a meeting to provide or procure such steam-vessels as they may think fit, and to employ the same or any of them in towing vessels into, out of, in or upon, the river Hugli or in the port, and to make such charges for towage by the said steam-vessels as they may deem expedient.

Money to be raised for works.

41. In case the Lieutenant-Governor of Bengal shall by an order published in the *Calcutta Gazette* so direct, it shall be lawful for the Commissioners from time to time to raise money for the estimated cost of any works or arrangements sanctioned by him, to such extent and as he may from time to time direct.

Mode of raising money.

42. Such money shall be raised in such way as the Lieutenant-Governor of Bengal shall by any rules or orders to be by him from time to time published in the *Calcutta Gazette*, with the sanction of the Governor General of India in Council, direct and appoint.

Money raised on debentures to be a first charge on property and rates.

43. In case such money shall be advanced on debentures bearing interest, such interest shall, subject to the provisions of section 6, be a first charge on all property acquired by the Commissioners under or by virtue of this Act, and on all tolls, duties, rates and charges leviable under this Act.

Application of funds raised.

44. All the moneys so to be raised shall be applied by the Commissioners in the acquisition of immoveable and moveable property, the payment of salaries, fees and expenses, and of interest, and of the cost of works and erections necessary or expedient for carrying out the purposes of this Act.

Application of surplus-income.

45. Whenever the half-yearly accounts hereinafter directed to be laid before the Lieutenant-Governor of Bengal shall shew a surplus for the half-year of income over expenditure, such surplus, or so much thereof as the said Lieutenant-Governor shall think fit, shall be applied by the Commissioners in paying off any of the debentures issued under this Act the principal sum due in respect whereof may be then payable, or any part of the debt due by them to the said Secretary of State, or such surplus may, if the Lieutenant-Governor shall so direct, in whole or part be invested by the Commissioners in the purchase in their corporate name of Government securities, or of their own

debentures, and the interest thereof may be accumulated and invested in like manner, with power to the Commissioners at any time to dispose of any such securities or debentures and to apply the proceeds and interest thereof, with the sanction of the said Lieutenant-Governor, in or towards any of the purposes of this Act.

Payment of debentures by fresh mortgage of rates.

46. The Commissioners may at any time, according to the provisions aforesaid, and with the approval of the Lieutenant-Governor of Bengal, raise in any of the ways aforesaid any money that may be required to pay any amount for the time being due by the Commissioners under the provisions of this Act.

Form of debenture.

47. All debentures which may be issued under the authority of this Act shall be in the form contained in the schedule (C) to this Act, and shall be transferable by endorsement, and the right to sue in respect of the moneys secured by any of such debentures shall be vested in the holders thereof for the time being, without any preference by reason of some of such debentures being prior in date to others.

Estimate of income and expenditure to be submitted annually to Commissioners.

48. The salaried chairman or salaried vice-chairman shall at a special general meeting, to be held within two months after the commencement of this Act, lay before the Commissioners a separate estimate of the expenditure and income of the Commissioners for the period which shall be to come from the commencement of this Act up to the first day of April then next ensuing; and shall also at a special general meeting, to be held in the month of February in each year, lay before the Commissioners a like estimate of such income and expenditure for the year commencing on the first day of April then next ensuing.

Every such estimate shall be in such form as the Lieutenant-Governor of Bengal shall, by an order published in the *Calcutta Gazette*, direct.

Provided always, that such estimate shall be completed and printed, and a copy thereof sent by post or otherwise to each Commissioner, at least ten clear days prior to the meeting before which the estimate is to be laid.

Revision and passing of estimates.

49. It shall be in the discretion of the Commissioners at such meeting by resolution to pass or to reject, or to modify or alter, such estimate and pass such estimate so modified or altered.

Estimate to be approved by Lieutenant-Governor.

50. Every such estimate when passed by the Commissioners in pursuance of the provisions of this Act shall be submitted to the Lieutenant-Governor of Bengal, and it shall be lawful for such Lieutenant-Governor either to approve of such estimate or to return the same with his remarks thereupon, and the Commissioners shall forthwith at a meeting proceed to re-consider such estimate in reference to such remarks and to modify or alter the same, and to re-submit such estimates to the said Lieutenant-Governor, and it shall not be

lawful for the Commissioners to expend any greater sum under such estimate than shall be approved by the said Lieutenant-Governor.

Power to make supplemental estimate.

51. It shall be lawful for the Commissioners, in the course of any year for which an estimate shall have been approved by the Lieutenant-Governor, to cause a supplemental estimate for the residue of such year to be prepared and laid before the Commissioners at a meeting, and thereupon such proceedings shall be had as in and by sections 48, 49 and 50 are directed to be had with respect to the estimate therein mentioned.

Expenditure to be made in pursuance of estimate.

52. It shall not be lawful for the Commissioners to expend any sum for any purpose not approved in some estimate for the time being in force, save in cases of pressing emergency; nor shall it be lawful for them to expend for any purpose not so approved any sum exceeding two thousand rupees without the assent in writing of the Lieutenant-Governor of Bengal.

Accounts to be audited and examined.

53. The accounts of the receipts and expenditure under this Act shall twice in every year be laid before the Lieutenant-Governor of Bengal, and shall be audited and examined.

The audit shall be made by such public department or by such auditors as shall from time to time be appointed by the Lieutenant-Governor of Bengal.

For the purposes of any audit and examination of accounts under this Act, the auditors may, by summons in writing, require the production before them of all books, deeds, contracts, vouchers and all other documents and papers which they may deem necessary, and may require any person holding or accountable for any such books, deeds, contracts, accounts, vouchers, documents or papers to appear before them at any such audit and examination or adjournment thereof, and to make and sign a declaration with respect to the same: and if any such person neglect or refuse so to do, or to produce any such books, deeds, contracts, accounts, vouchers, documents or papers, or to make or sign such declaration, he shall be liable for every neglect or refusal to a penalty not exceeding one hundred rupees.

All auditors not being a public department acting under this Act shall in respect of each audit be paid by the Commissioners such remuneration as the Lieutenant-Governor of Bengal shall from time to time determine.

Provided always, that before each audit and examination of accounts under this Act, the salaried chairman or salaried vice-chairman shall give ten days' notice of the time and place at which the same will be made by advertisement in the *Calcutta Gazette* and in at least two of the daily English newspapers published in Calcutta; and a copy of the accounts to be audited and examined shall be deposited in the office of the Commissioners, and thereat be open during office-hours to the inspection of any person on payment of a fee of one rupee on each occasion of inspection, for seven days before the audit and

examination, and all such persons shall be at liberty to take copies of, or extracts from, the same without further payment, and within fourteen days after the audit and examination shall have been completed, the auditors shall report upon the accounts audited and examined, and shall deliver such report to the Commissioners at a meeting, who shall cause the same to be deposited in the office of the Commissioners and to be published in the *Calcutta Gazette* and in some one or more of the said newspapers.

Public landing-places to be provided.

54. The Commissioners shall make a sufficient number of public landing-places from and upon which the public shall be permitted to embark and to land free of charge.

Ghâts and bathing-places to be provided.

55. It shall be lawful for the Commissioners, if they shall consider it necessary for the purposes of this Act, to occupy or remove or modify any bathing-ghât or landing-place within the port, and to prohibit the public from afterwards resorting to or using the same.

Provided nevertheless, that the Commissioners shall reserve, set-out, make, and provide for the use of the public such sufficient bathing-ghâts within the port, not exceeding in number those that may be so modified or removed, as the Lieutenant-Governor of Bengal may direct.

No wharf, quay, &c., to be made without consent of Lieutenant Governor.

56. It shall not be lawful for any person or persons, save the Commissioners, to make, erect or fix below high water-mark within the port any wharf, quay, stage, jetty, pier, erection or mooring without the consent in writing of the Lieutenant-Governor of Bengal first had and obtained.

Any matter or thing which may be so erected or fixed may be removed by the Commissioners: and the person who shall have so made, erected or fixed any such matter or thing, shall be liable on conviction to a fine which may extend to one thousand rupees and to a further fine which may extend to one hundred rupees for every day during which such matter or thing shall have been permitted to remain so made, erected or fixed after notice to remove the same shall have been given to him, and shall also be liable to pay all expenses which may have been incurred by the Commissioners in removing such matter or thing.

Provided that this section shall not apply to moorings laid down or to be laid down by the conservator of the port.

Power to remove erections.

57. In case any wharf, dock, quay, jetty, pier, erection or mooring shall without the consent in writing of the Lieutenant-Governor of Bengal be fixed, excavated, erected or built below high water-mark without the limits for the time being of the port, and thereafter the limits of the port shall be extended so as to include the place in which such wharf, dock, quay, jetty, pier, erection or mooring shall have been fixed, excavated, erected or built, it shall be lawful for the Commissioners to remove, fill-up or destroy such wharf, dock,

quay, jetty, pier, erection or mooring without making any compensation therefor.

Wharves, &c., to be appointed under Customs' Acts.

58. When the Lieutenant-Governor of Bengal shall, under the provisions of any Act for the regulation of duties of customs, appoint any wharf, quay, stage, jetty or pier, erected or acquired under this Act for the use of sea-going vessels, to be a wharf for the landing of goods within the meaning of such enactment, the Commissioners shall set-apart, maintain and secure on such wharf, quay, stage, jetty or pier, such portion thereof, or place therein, or adjoining thereto, for the use of the officers of customs, as the Lieutenant-Governor of Bengal shall in that behalf approve or appoint.

Dues for wharves in possession of customs' officers.

59. Notwithstanding that any wharf, quay, stage, jetty or pier or portion thereof shall under the provisions of the last section have been set-apart for the use of the officers of customs, all dues, rates, tolls and rents payable in respect thereof, or for the use thereof, or for the storage of goods thereupon, shall be paid and payable to the Commissioners or to such person or persons as they may appoint to receive the same.

Commissioners to provide servants, &c., for shipping and landing goods.

60. The Commissioners shall, when thereunto required by the Lieutenant-Governor of Bengal, provide and keep and maintain sufficient servants and apparatus for the expeditious and convenient landing and shipment of goods from and upon all sea-going vessels coming to the wharves, quays, stages, jetties or piers erected by them, and shall by their servants land and ship all goods from and upon any such vessel so coming to such wharf, quay, stage, jetty or pier, unless where there is a legal excuse for refusing to land or ship such goods, or such vessel is by reason of the breach or non-observance of any law or regulation not entitled to have her cargo shipped or discharged.

Provided that the Commissioners shall not be bound to land, ship or move any single article or package exceeding thirty tons of twenty hundredweight in weight, except at such special charge as may be agreed on in respect of such article or package.

Discharge of liability on Commissioners landing goods.

61. Whenever any goods shall be landed by the Commissioners from any vessel under the powers by this Act conferred on them, they shall, if thereunto required, give to the person in charge of such vessel a receipt in the form or to the effect in schedule (D) set forth, and may in any such receipt include all goods landed from such vessel during one day, and no person to whom such receipt shall have been so given, nor the master nor owner of the vessel from which the goods in respect of which such receipt shall be given may have been landed, shall be liable for any loss or damage to such goods which may occur after they shall have been so landed.

Power to compel ships to load and

62. When any wharf, quay, stage, jetty or pier erected under the provisions of this Act shall have been made and completed, together with sufficient

warehouses, sheds, cranes and moorings for landing and shipping, or for landing or shipping,[a] goods from and upon sea-going vessels, it shall be lawful for the Commissioners with the sanction of the Lieutenant-Governor of Bengal, by a notification published in three consecutive numbers of the *Calcutta Gazette*, to declare that such wharf, quay, stage, jetty or pier is ready for receiving, landing and shipping, or for landing or shipping,[b] goods, from and upon sea-going vessels.

unload at wharves, &c., of Commissioners.

And from and after such notification and publication, it shall be lawful for the Commissioners to require the conservator of the port, or other person exercising the rights, powers and authorities of the conservator of the port, from time to time, when there shall be room at such wharf, quay, stage, jetty or pier, to order to come alongside of such wharf, quay, stage, jetty or pier, for the purpose of being laden or unladen by the Commissioners, any sea-going vessel which shall not have commenced to discharge a cargo, or which being about to take in cargo shall not have commenced to take in cargo.

And if after such order of the conservator of the port or other person aforesaid, the owner or master of any such vessel shall either take in or discharge cargo, save and except at such wharf, quay, stage, jetty or pier to which such vessel shall have been so ordered, the owner thereof or, in case he shall not be in Calcutta, the master thereof, shall be liable to a penalty of one hundred rupees for each day that he shall land or ship or attempt to land or ship any goods in contravention of such order.

When sufficient accommodation, all vessels to load and unload at Commissioners' wharves.

63. When a sufficient number of wharves, quays, stages, jetties and piers shall have been erected under this Act for landing and shipping the cargoes of all sea-going vessels resorting to the port, it shall be lawful for the Commissioners with the sanction of the Lieutenant-Governor of Bengal, by an order published in three consecutive numbers of the *Calcutta Gazette*, to direct that no goods shall be landed or shipped from or upon any sea-going vessel within the port, save at such wharves, quays, stages, jetties and piers, and by any order in like manner published to alter, vary or revoke any such order.

And whoever shall, after such order has been so published as aforesaid, land or ship, or attempt to land or ship, any goods in contravention of such order, shall be liable to a fine not exceeding two hundred rupees for every day that he shall so land or ship any goods in contravention of the said order.

Provided always, and it is hereby declared, that notwithstanding any thing in this or in section 62 contained, it shall be lawful for the Lieutenant-Governor of Bengal, by notice in the *Calcutta Gazette*, from time to time, if he shall so think fit, to declare that certain specified vessels or classes of

[b] Bengal Act No. VII of 1871, section 2.

vessels shall be permitted to discharge or ship cargo, or that certain specified goods or cargoes, or classes of goods or cargoes, shall be permitted to be landed or shipped elsewhere, and at such part of the port of Calcutta, and for such time and on such conditions, as he may think fit.

Inland vessels to load and unload at places provided for them.

64. When any wharf, quay, stage, jetty or pier for receiving, landing or shipping goods from vessels (not being sea-going vessels) shall have been made and completed with all proper appliances in that behalf, it shall be lawful for the Commissioners with the sanction of the Lieutenant-Governor, by an order published in three consecutive numbers of the *Calcutta Gazette*, to declare that such wharf, quay, stage, jetty or pier is ready for receiving, landing and shipping goods from vessels not being sea-going vessels, and in the same way to order that, within certain prescribed limits to be therein specified in that behalf, it shall not be lawful to land or ship any goods out of, or into, any vessel (not being a sea-going vessel) of any class specified in such order, except at such wharf, quay, stage, jetty or pier.

And in the same way to alter, vary or revoke any such order.

After such publication as aforesaid, it shall not be lawful for any vessel of such class to land or ship any goods at any place within the limits so specified, except at such wharf, quay, stage, jetty or pier, nor for any such vessel, while within such limits, to anchor, fasten or lay within fifty yards of the ordinary low water-mark without the consent of the Commissioners.

And if after such publication any such vessel shall while within such limits so anchor, fasten or lay, it shall be lawful for the Commissioners to cause the same to be removed out of the said limits, and it shall be the duty of the conservator of the port to aid and assist the Commissioners in so removing such vessel.

Any person guilty of any breach of the provisions of this section shall be liable to a fine not exceeding fifty rupees for every such breach.

Tolls to be levied.

65. The Commissioners shall frame a scale of tolls, dues, rates and charges for the landing and shipment of goods from and into sea-going vessels at the wharves, quays, stages, jetties and piers erected under this Act, and for the use thereof by such vessels, and for the storing and keeping of any goods stored in any premises belonging to them, and for the removal of goods and for the use of any moorings laid down or acquired under the provisions of this Act or of Act X of 1866,[a] or of Act IV of 1869,[b] respectively passed by the Lieutenant-Governor of Bengal in Council.

And also a scale of tolls, dues and rates for the landing and shipment of goods into, and out of, any vessel (not being a sea-going vessel), and also

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[a, b] Repealed by this Act.

a scale of tolls for the use of the said wharves, quays, moorings, stages, jetties and piers by any such vessel, in case the Commissioners shall permit the goods to be landed or shipped by others than their own officers and servants, and also a scale of charges for any services to be performed by the Commissioners or their servants in respect of any vessel or goods, or for the use of any works or appliances to be provided by the Commissioners.

Such scale of tolls, dues, rates and charges shall be adopted by a resolution of the Commissioners at a meeting, and shall be submitted to the Lieutenant-Governor of Bengal, and, after receiving his approval, shall be published by the Commissioners in the *Calcutta Gazette*, and may from time to time, subject to the like approval and publication, be in like manner altered.

Power to impose rates on goods to provide for payment of debt.

66. If on the preparation of the estimate of any year, it shall appear that the estimated income of the Commissioners for such year, after deducting therefrom the estimated expenditure of such year to be incurred under this Act, will be insufficient for the payment of the sums which under the provisions of this Act will be payable during such year to the Secretary of State for India in Council, or if at any time in the course of a year it may appear that the actual income of such portion of the year as may have then elapsed and the estimated income of the residue of such year, after deducting therefrom the actual expenditure of such past portion and the estimated expenditure of such residue, will be so insufficient, then and in every such case, the Commissioners shall, upon the requisition in writing of the Lieutenant-Governor of Bengal, from time to time, and to the extent requisite in every case, charge upon all goods landed from, or shipped into, any vessel lying or being within the limits of the port, whether such goods shall or shall not be so landed or shipped at any wharf, quay, stage, jetty or pier belonging to the Commissioners, such tolls, dues, rates and charges, in addition to or other than those prescribed by any scale of tolls, dues, rates and charges for the time being in force under the provisions of section 65, as will, when added to the said income of the year, suffice, as nearly as may be, for the payment of the said sums in full.

Such tolls, dues, rates and charges shall be fixed and adopted by a resolution of the Commissioners at a meeting, and shall be submitted to the Lieutenant-Governor of Bengal, and if the same shall be approved by him shall be published in the *Calcutta Gazette* and shall forthwith come into operation and remain in operation until altered or revoked by the Commissioners at a meeting with the sanction of the Lieutenant-Governor of Bengal, and shall be leviable and recoverable in like manner as any other tolls, dues, rates and charges payable under this Act.

On failure of Commissioners, Lieutenant-Governor may impose rates.

67. In case the Commissioners shall for fifteen days after the receipt by them of any such requisition from the Lieutenant-Governor of Bengal as in section 66 is mentioned, neglect or refuse to charge such tolls, dues, rates and charges, it shall be lawful for the Lieutenant-Governor of Bengal, by an order published in the *Calcutta Gazette*, to charge such tolls, dues, rates and charges, and the tolls, dues, rates and charges mentioned in such order shall have such and the same effect as if they had been fixed and adopted by the Commissioners at a meeting and approved by the Lieutenant-Governor and published in the *Calcutta Gazette* as in section 66 is mentioned.

Recovery of tolls in arrear.

68. For the amount of all tolls, charges, dues and rates duly leviable under this Act in respect of any goods, the Commissioners shall have a lien on such goods, and shall be entitled to seize and detain the same until such tolls, rates and dues are fully paid.

Tolls, rates and dues in respect of goods to be landed shall become payable immediately on the landing of the goods.

Tolls, rates and dues in respect of goods to be removed from the premises of the Commissioners, or to be shipped for export, shall be payable before the goods are removed or shipped.

The lien for such tolls, rates and dues shall have priority over all other liens and claims, except for general average, for the ship-owner's lien for freight upon the said goods where such lien exists and has been preserved in the manner hereinafter provided, for primage, and for money payable to Her Majesty or the Secretary of State for India in Council under any law for the time being in force.

Provided that nothing in this Act shall affect any power or authority vested in the chief officer of customs under any law for the time being in force.

Goods may be removed to public warehouses.

69. In any case in which goods, without any default on the part of the Commissioners, shall have been left for two days on or in any wharf or shed belonging to the Commissioners, it shall be lawful for the Commissioners to remove such goods, or cause the same to be removed, either to any warehouse belonging to them, or, with the consent of the chief officer of customs, to the public warehouses, and the removal to and detention in any such warehouse shall be at the risk and expense of the owners of the said goods.

Whenever any goods shall be so removed, the Commissioners shall give notice to the consignee or owner of such goods of such removal, if his address be known, by letter sent by post to such address or left thereat, and shall also publish in the *Calcutta Gazette* notice of such removal, and shall specify therein the numbers, marks and descriptions of such goods so far as the same appear, and the consignee or owner of such goods, in addition to the expenses of the

removal of the same, shall be liable, in case the goods shall be removed to any warehouse or store of the Commissioners, to a charge for warehousing for the time during which the goods shall remain in the said warehouse.

In case the said goods shall be removed to the public warehouses, then the said consignee or owner shall be liable to the charges for warehousing goods in such public warehouses, and the said goods shall remain subject to all liens to which they would have been liable if they had remained in the possession of the Commissioners, and to the power of sale hereinafter given.

Lien for freight preserved after landing of goods if notice of lien be given.

70. If the master or owner of any vessel or his agent, at or before the time of landing from such vessel any goods at any wharf, quay, stage, jetty or pier erected under this Act, shall give to the Commissioners notice in writing that such goods are to remain subject to a lien for freight or other charges payable to the ship-owner to an amount to be mentioned in such notice, such goods shall continue liable to the same lien, if any, for such charges, as they were subject to before the landing thereof.

Such goods shall be retained either in the warehouses and sheds of the Commissioners, or, with the consent of the chief officer of customs, in the public warehouses, at the risk and expense of the owners of the said goods, until the lien is discharged as hereinafter mentioned.

Discharge of lien by payment or release.

71. Upon the production to the officer of the Commissioners in that behalf of a document purporting to be a receipt for the amount claimed as due, or a release of freight from the person by or on whose behalf such notice shall have been given, it shall be lawful for the Commissioners to permit such goods to be removed without regard to such lien, provided they shall have used reasonable care in respect to the authenticity of such document.

If tolls not paid, or lien for freight not discharged, goods may be sold after expiration of two months.

72. If the tolls, rates and dues payable to the Commissioners in respect of any goods under this Act are not paid, or if the lien of the ship-owner for freight where such notice as aforesaid has been given is not discharged, the Commissioners may, and in the latter event if required by or on behalf of the person claiming such lien for freight shall, at the expiration of two months from the time when the goods were placed in their custody, or if the goods are of a perishable nature at such earlier period, being not less than twenty-four hours after the landing of the goods, as they shall think fit, sell by public auction the said goods, or so much as may be necessary to satisfy the amounts hereinafter directed to be paid out of the produce of such sale.

Before making such sale, ten days' notice of the same shall be given by publication thereof in the *Calcutta Gazette*, unless the goods are of so perishable a nature as in the opinion of the officer of the Commissioners in that behalf to render immediate sale necessary or advisable, in which event such notice shall be given as the urgency of the case admits of.

If the address of the owner of the goods has been stated on the manifest of the cargo, or in any of the documents which have come into the hands of the Commissioners, or is otherwise known, notice shall also be given to the owner of the goods by letter delivered at such address or sent by the post: but the title of a *bonâ fide* purchaser of such goods shall not be invalidated by reason of the omission to send the notice hereinbefore mentioned, nor shall any such purchaser be bound to inquire whether such notice has been sent.

Application of proceeds of sale.

73. In every case of any such sale as aforesaid, the moneys received from the sale shall be applied as follows:—

1st,—in payment of the expenses of the sale:

2ndly,—in payment according to their respective priorities of the liens and claims excepted in section 68 from the priority of the liens of the Commissioners for tolls, rates and dues:

3rdly,—in payment of the tolls, charges and expenses of landing, removing, storing or warehousing the same, and of all other charges due to the Commissioners under this Act in respect thereof.

The surplus, if any, shall be paid to the importer, owner or consignee of the goods, or to his agent, on his applying for the same; provided such application be made within one year from the sale of the goods, or good reason be shewn why such application was not so made to the satisfaction of the Commissioners; and in case such application shall not be so made, nor reason shewn, such surplus shall be held by the Commissioners upon trust for the purposes of this Act.

Power to distrain vessels for non-payment of tolls.

74. If the master of any vessel in respect of which any tolls, dues, rates, penalties or charges shall be payable under this Act or any rules or orders made in pursuance thereof, shall refuse or neglect to pay the same or any part thereof on demand, it shall be lawful for the Commissioners to apply to the Collector of customs of the port of Calcutta, and such Collector shall distrain or arrest of his own authority such vessel, and the tackle, apparel and furniture belonging thereto, or any part thereof, and detain the same until the amount so due to the Commissioners shall be paid; and in case any part of the said tolls, dues, rates, penalties or charges, or of the costs of the distress or arrestment, or of the keeping of the same, shall remain unpaid for the space of five days next after any such distress or arrestment shall have been so made, the Collector of customs may cause the vessel or other thing so distrained or arrested to be sold, and with the proceeds of such sale may satisfy such tolls, dues, rates, penalties or charges and costs, including the costs of sale, remaining unpaid, rendering the surplus (if any) to the master of such vessel on demand.

Port-clearance not to be granted till tolls paid.

75. If the Commissioners shall give to the officer of Government whose duty it shall be to grant the port-clearance of any vessel, a notice stating that an amount therein specified is due in respect of tolls, dues, rates or charges, or penalties chargeable, under this Act or any bye-laws, rules or orders made in pursuance thereof, against such vessel or the owner or master of such vessel in respect thereof, or against or in respect of any goods on board such vessel, such officer shall not grant such port-clearance until the amount so chargeable shall have been paid.

Compensation for damage to property of Commissioners.

76. In case any damage or mischief shall be done to any wharves, quays, jetties, piers or works constructed or acquired by the Commissioners under the provisions of this Act, by any vessel, through the negligence of any person having the guidance or command thereof, or of any of the mariners or persons employed therein, it shall be lawful for any Magistrate of the town of Calcutta, on the application of the Commissioners, to issue a summons to the master of, or agent for, such vessel requiring him to attend on a day and at an hour named in the summons to answer touching such damage or mischief.

If at the time appointed in the summons, and whether the person summoned shall appear or not, it shall be made out to the satisfaction of the Magistrate that the alleged damage was done through such negligence as aforesaid, and that the pecuniary amount of the same does not exceed two hundred rupees, it shall be lawful for the Magistrate to issue his warrant of distress under which a sufficient portion of the boats, masts, spars, ropes, cables, anchors or stores of the vessel may be seized and sold to cover the expenses of and attending the execution of the distress and the pecuniary amount of damage as aforesaid, and such amount shall be paid to the Commissioners out of the proceeds of the distress.

Provided that, if at the time of the damage or mischief the vessel was under the orders of a duly authorized officer belonging to the pilot-service or the harbour-master's or master attendant's department, the case shall not be cognizable by the Magistrate under this section.

Sanitary provisions.

77. Any person who wilfully deposits, or permits his servants to deposit, any dust, dirt, dung, ashes, refuse or filth of any kind, or any animal matter or any broken glass, earthenware or rubbish, in or upon any wharf, quay, stage, jetty or pier belonging to the Commissioners, or in or upon any part of the river-bank within the port, shall be liable to a fine not exceeding ten rupees for each offence.

Limits of port of Calcutta how defined.

78. It shall be lawful for the Lieutenant-Governor of Bengal, by an order published in the *Calcutta Gazette*, to define the limits of the port for the purposes of this Act, and from time to time, by any notice to be in like manner published, to alter, vary or revoke the same or any part thereof, and by the

same or any other order to be in like manner published to define other limits of the port, and the limits so defined in any such order shall, while such order is in force, be for the purposes of this Act the limits of the port.

Provided, however, that until such order shall be published, the limits of the port as for the time being defined by a declaration made by the Government of Bengal under the provisions of the Indian Ports Act, 1875,[a] passed by the Legislative Council of India shall, for the purposes of this Act, be the limits of the port.

Jurisdiction as to offences committed within Calcutta.

79. Every charge of an offence against any provision of this Act, or of any rule, order or bye-law made under the provisions of this Act, alleged to have been committed within the town of Calcutta, shall be heard and determined in a summary way by some Police Magistrate of Calcutta, according to the provisions of the law for the time being regulating the procedure of the Court of such Police Magistrate.

Jurisdiction as to offences committed out of Calcutta.

80. Every charge of an offence against the provisions of this Act, or of any rule, order or bye-law made under the provisions of this Act, alleged to have been committed out of Calcutta, may be heard and determined by any officer authorized to exercise any of the powers of a Magistrate in the place in which such offence may be alleged to have been committed, and the provisions of the Code of Criminal Procedure shall apply to the trial of every such charge.

Regulations as to buoys and moorings.

81. All regulations under, and provisions of, the said Indian Ports Act, 1875,[b] passed by the Legislative Council of India, with regard to buoys and moorings, shall extend to the buoys and moorings laid down by, or belonging to, the Commissioners.

The conservator of the port and his assistants, in carrying out and enforcing such regulations, shall act under the direction of the Commissioners.

Commissioners empowered to make bye-laws.

82. It shall be lawful for the Commissioners at a meeting from time to time to make bye-laws for the guidance of persons employed by them under this Act;

for the safe and convenient use of the wharves, quays, jetties, sheds, warehouses, tramways and other works constructed by them under the authority of this Act;

for the use of the public landing-places constructed by them;

for the reception and removal of goods brought within the premises of the Commissioners;

for declaring the procedure to be followed by the Commissioners in taking charge of goods which shall have been damaged before landing, or shall be alleged to be so damaged;

[a, b] See Act No. XII of 1875, sec. 3, cl. 3.

for keeping clean the river, the river-bank and the works of the Commissioners, and for preventing filth or rubbish being thrown therein or thereon;

for the mode of payment of the tolls, dues, rates and charges leviable under this Act;

for regulating, declaring and defining the wharves, quays, jetties, stages and piers on which goods shall be landed from vessels and shipped on board vessels;

for regulating, defining and declaring the places and stations on which vessels shall be fastened or moored, or shall lie or remain:

or otherwise for carrying out the purposes of this Act:

and from time to time to vary, alter or revoke any such bye-law so made by them.

Approval of bye-laws.

83. No bye-law, or alteration or revocation of a bye-law, shall have effect until the same shall have been approved by the Lieutenant-Governor of Bengal by an order published in the *Calcutta Gazette*, and no bye-law shall be approved by the said Lieutenant-Governor until it shall have been published for three weeks successively in the *Calcutta Gazette*, and when such bye-law shall have been so approved, all Courts of law shall take judicial notice thereof.[a]

Lieutenant-Governor may revoke and annul bye-laws.

84. It shall be lawful for the Lieutenant-Governor of Bengal, by an order published in the *Calcutta Gazette*, to revoke, annul and make void any bye-law made and published under the provisions of section 82 and section 83.

Penalty for infringement of bye-laws.

85. No penalty for any one infringement of a bye-law shall exceed one hundred rupees, nor in case of a continuing infringement shall any penalty exceed fifty rupees per diem, for every day after notice of such infringement shall have been given by the Commissioners to the person guilty of such infringement.

Bye-laws and tables of tolls to be exhibited.

86. The Commissioners shall cause the said bye-laws and the tables of tolls, dues, rates and charges leviable to be printed in the English and Bengálí languages and characters, and to be hung up and kept hung up at the several wharves, quays and jetties and other convenient places on the premises of the Commissioners.

Notice of action.

87. No suit shall be brought against any person for any thing done, or purporting or professing to be done, in pursuance of this Act, after the expiration of three months from the day on which the cause of action in such suit shall have arisen.

Government may order local survey.

88. The Lieutenant-Governor of Bengal may at any time order a local survey and examination of any works of the Commissioners under this Act, or the intended site thereof, and the cost of such survey and examination shall

[a] See *Calcutta Gazette*, 7th August, 1872, Part I, p. 95: *Ibid.*, 19th September, 1877, Part I, p. 1287.

be borne and paid by the Commissioners out of the moneys in their hands by virtue of this Act.

Government may restore or complete works.

89. If the Commissioners shall allow any work constructed by them under this Act to fall into disrepair, or shall not complete any work commenced by them or included in any estimate as aforesaid submitted and approved of, and shall not after due notice in writing proceed effectually to repair or complete such work under this Act, it shall be lawful for the Lieutenant-Governor of Bengal to cause such work to be restored, completed or constructed either by the officers of Government or any private contractor, and the cost of any such restoration, completion or construction shall be a charge on the works, and a debt due from the Commissioners to the Secretary of State for India in Council.

Mode of realizing money due to Secretary of State.

90. If at any time any money which may for the time being be payable under the provisions of this Act to the Secretary of State for India in Council for interest or for any instalment of principal shall be due and unpaid for one month after the same shall have become payable, it shall be lawful for the Lieutenant-Governor of Bengal, by an order published in the *Calcutta Gazette*, to appoint some person to receive the rents, issues and profits, tolls, rates, charges and other income which the Commissioners may under this Act be entitled to receive, and to apply the same in discharge of the amount so payable; and the person so to be appointed shall have, for the recovery of such rents, issues, profits, tolls, rates, charges and income, all and singular the powers and authorities herein and hereby conferred on the Commissioners for the purposes aforesaid.

Government may take possession and revoke powers of Commissioners.

91. If at any time it shall appear to the satisfaction of the Lieutenant-Governor of Bengal that the works intended to be accomplished under this Act have not been, and are not likely to be, properly carried out, or (if carried out) have not been, and are not likely to be, properly maintained by the Commissioners, it shall be lawful for the said Lieutenant-Governor to give six months' notice by order published in the *Calcutta Gazette*, that unless within that period the Commissioners shall take measures to the satisfaction of the said Lieutenant-Governor for the carrying out or proper maintenance of the said works, the powers by this Act conferred on the Commissioners will at the end of such period be withdrawn and revoked, and the Government of Bengal may assume possession and management of the works (if any) already constructed, and on the expiration of such period of six months by an order in like manner published to declare such powers revoked.

By such last-mentioned order and without the necessity of any conveyance, all immoveable and moveable property, all rights of levying and recovering tolls, dues and rates, all benefit of contracts, and all rights of suit, which at the time may be vested in the Commissioners under this Act, shall be trans-

ferred to and vested in the Secretary of State for India in Council, and the rights of all creditors of the Commissioners under this Act shall continue as against the said Secretary of State in Council to the extent of the property so transferred to and vested in him.

Powers of Justices over river-bank withdrawn.

92. From and after the commencement of this Act the powers in and by sections 91, 184 and 185 of Act VI of 1863,[a] passed by the Lieutenant-Governor of Bengal in Council, or any of them, conferred upon the Justices of the Peace for the town of Calcutta, shall absolutely cease and determine with respect to any part of the river or river-bank of the port.

93, 94.—[*Repealed by Act No. XII of 1873.*]

Power to make Commissioners conservators of port.

95. It shall be lawful for the Lieutenant-Governor of Bengal, with the previous sanction of the Governor General of India in Council, at any time after the passing of this Act, by an order published in the *Calcutta Gazette*, to confer on the Commissioners the powers of the conservator of the port of Calcutta within the port and such portions of the navigable rivers and channels leading thereto, and connected therewith, as shall be specified in such order, and from time to time, by any other order to be in like manner published, to confer on the Commissioners the same powers in any other portion of the said river and channels; provided always that no such order shall be made without the consent of the Commissioners at a meeting.

Port-dues may be made payable to Commissioners.

96. Every such order may direct that any of the port-dues or fees payable under the provisions of any Act authorizing the levy, or requiring payment, of port-dues or fees from or in respect of vessels entering or leaving the said port, or being or lying therein, or using the said port, shall be received by the Commissioners, and shall also specify the amount, if any, of charge to which the Commissioners shall be liable in respect thereof.

Commissioners to exercise powers of conservator.

97. From and after the publication of any such order the Commissioners shall have within the port and the portion of the said navigable rivers and channels specified in any such order all and singular the rights, powers and authorities in and by the Indian Ports Act, 1875,[b] passed by the Legislative Council of India, or any other Act, conferred on the conservator of the port, and may exercise such rights, powers and authorities by any officer to be by them thereunto appointed, and the said rights, powers and authorities shall not be exercised by any other person within the said port or portion of the said navigable rivers and channels.

Commissioners to receive port-dues.

98. From and after the publication of any such order, all the port-dues and fees in and by such order directed to be received by the Commissioners and payable in respect of any vessel entering or leaving the port, or being therein,

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[a] Repealed by Bengal Act No. IV of 1876. [b] See Act No. XII of 1875, sec. 3, cl. 3.

shall be payable to the Commissioners, and shall be deemed to be a portion of their income, and shall be included in their annual estimates and accounts.

Powers to make improvement.

99. From and after the publication of any such order, the Commissioners may execute within the port and the portion of such navigable rivers and channels in such order mentioned, such works as they at a meeting may determine, and all the powers, authorities, restrictions and provisions contained in this Act in respect to the works by this Act authorized shall apply to such works and to the sanction thereof, the estimates therefor, and the expenditure thereon.

Charge to be included in debt to Government.

100. If in any such order the Lieutenant-Governor of Bengal shall specify any amount of charge to which the Commissioners shall be liable in respect of the port-dues and fees to be received by them, the same shall be deemed to be a sum of money advanced by the Secretary of State for India in Council under the provisions of this Act, and to be due on the day upon which such order shall take effect.

Short title.

101. This Act may be called "The Calcutta Port Improvement Act, 1870."

SCHEDULE A.—(*referred to in section 7*).

Details of the several sums to be taken as due from the Commissioners for making improvements in the port of Calcutta to the Secretary of State for India in Council.

	Estimated cost of work. Rs.
Improvement of the river-bank at Calcutta near Jagannáth ghát for the accommodation of the country-boat-traffic ...	1,17,036
Constructing four screw-pile jetties with steam-cranes and goods-sheds on the strand-bank, Calcutta...	5,28,500
Making lots Nos. 13 to 24 on the strand-bank, Calcutta, available for export-traffic	11,913
Constructing two screw-pile jetties with tramways, cranes and hoists, opposite the existing north custom-house shed on the strand-bank, Calcutta	2,15,415
Constructing offices, &c., for the use of the officers employed on the new jetties on the strand-bank, Calcutta	12,010
Supplying two steam-hoists for single crane-jetties, Nos. 1 and 3, on the strand-bank, Calcutta	4,585
Minor works and expenses, contingent and establishment-charges, and cash-balance made over	1,10,541
Total ...	10,00,000

SCHEDULE B—(*referred to in section 8*).

Sums to be paid in discharge of the principal of the amount by section 8 declared to be due from the Commissioners to the Secretary of State, and times fixed for such payment:—

			Rupees.
1st August	1873	... ...	1,00,000
„ „	1876	... ...	1,00,000
„ „	1879	... ...	1,00,000
„ „	1882	... ...	1,00,000
„ „	1885	... ...	1,00,000
„ „	1888	... ...	1,00,000
„ „	1891	... ...	1,00,000
„ „	1894	... ...	1,00,000
„ „	1897	... ...	1,00,000
„ „	1900	....	1,00,000

SCHEDULE C—(*referred to in section 47*).

FORM OF DEBENTURE.

The Commissioners for making improvements in the port of Calcutta.

The 18

No.

By virtue of the Act No. V of 1870 of the Council of the Lieutenant Governor of Bengal for making Laws and Regulations, entitled "An Act to appoint Commissioners for making improvements in the port of Calcutta," we, the Commissioners for making improvements in the port of Calcutta, in consideration of the sum of rupees paid to us by *A. B.* of , promise to pay to the said or order the said sum of rupees after the date hereof together with interest at the rate of *per centum per annum* payable half-yearly on the day of and the day of

(*Signatures of the Chairman or Vice-Chairman and two Commissioners.*)

SCHEDULE D—(*referred to in section 61*).

FORM OF RECEIPT FOR GOODS.

By the Commissioners for making improvements in the port of Calcutta.

Landed during the day of from the

by the Commissioners for making improvements in the port of Calcutta the noted in the margin (*if there be any apparent injury this is to be stated*), contents and state of the contents unknown.

(*For the Commissioners for making Improvements in the Port of Calcutta.*)

A. B.

CALCUTTA,
day of 18

ACT No. VI OF 1870.

Received the Lieutenant-Governor's assent on the 16th of June 1870, and the Governor General's assent on the 28th of September 1870.

An Act to provide for the appointment, dismissal and maintenance of village-chaukídárs.

Preamble.

WHEREAS it is expedient to make provision for the appointment, dismissal and maintenance of village-chaukídárs in the Provinces subject to the Lieutenant-Governor of Bengal; It is enacted as follows:—

Definitions.

1. The following words and expressions shall, in the construction of this Act, have the several meanings hereby assigned to them respectively, except where a different intention shall appear from the context (that is to say)—

"Magistrate of the district."

the words "Magistrate of the district" shall mean the chief officer charged with the executive administration of a district in criminal matters by whatsoever designation such officer is called:

"Magistrate."

the word "Magistrate" shall mean the officer exercising all or any of the powers of a Magistrate, and charged with the immediate executive administration, in criminal matters, in any sub-division of a district or portion of a district within which any village may be situated, by whatsoever designation such officer is called:

"Chaukídárí chákarán lands."

the words "chaukídárí chákarán lands" shall mean lands which may have been assigned, otherwise than under a temporary settlement, for the maintenance of the officer who may have been bound to keep watch in any village and report crime to the Police, and in respect to which such officer may be at the time of the passing of this Act liable to render service to a zamíndár:

"Zamíndár."

the word "zamíndár" shall mean the person whose name is registered in the general register of estates paying revenue directly to Government, as the proprietor of an estate so paying revenue, or the person whose name is registered in the general register of rent-free tenures as proprietor of a rent-free tenure.

Repeal of section.

2. Section 21, Regulation XX of 1817, is hereby repealed as to all villages to which this Act may apply.

Power to appoint panchávat in villages.

3. It shall be lawful for the Magistrate of the district, by a sanad under his hand and seal, to appoint not less than three nor more than five persons to be a panchávat in any village containing more than sixty houses, within the district of which he is in charge.

Provided that no such panchávat shall be appointed in any village to which the provisions of Act XXVI of 1850, or of Act XX of 1856,[a] passed by the Legislative Council of India, or the provisions of Act III of 1864,[b] or of Act VI of 1868,[c] passed by the Lieutenant-Governor of Bengal in Council, shall have been extended.

Provided also that no panchávat shall be appointed in any village until some officer exercising any of the powers of a Magistrate shall, in personal communication with the residents in such village or some of them, have explained to them the general duties of a panchávat.[d]

Power to make unions of villages.

4. If two or more villages containing together not less than eighty houses are so situate that some house in one of such villages is situate within one mile of some house in each of the others, it shall be lawful for the Magistrate to form such villages into a union, and for the purposes of this Act such union shall be deemed to be a village.

Power to appoint panchávat on application of villagers.

5. Whenever the majority in number of the adult male residents in any village, or in two or more villages so situate as in section 4 is set forth shall, by a writing signed by them, apply to the Magistrate of the district for the appointment of a panchávat in such village or villages, it shall be lawful for him to appoint a panchávat under this Act in such village or villages without regard to the number of houses therein contained, and all the provisions of this Act shall apply to such panchávat and to such village or villages.

Succession of member of panchávat.

6. Whenever any member of a panchávat shall die or cease to be a member of such panchávat, the Magistrate of the district shall, by a sanad under his hand and seal, appoint some other person to be a member of such panchávat in the place or stead of the person so dying or ceasing to be a member.

Qualification of members of panchávat.

7. No person shall be appointed to be a member of a panchávat under this Act unless he be a resident in such village or the proprietor or holder of land therein or his local agent; provided that such proprietor or local agent shall not be so appointed unless he be resident within one mile from some part of such village.

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[a] See *supra*, p. 305. [b, c] Repealed by Bengal Act No. V of 1876.
[d] See Bengal Act No. V of 1876, section 375.

Penalty on refusing to act as member of panchâyat.

8. If any person, appointed to be a member of a panchâyat, shall refuse to undertake the office, or wilfully omit to perform the duties thereof, and shall not within fifteen days from the date of his appointment, or from such omission, shew grounds to the satisfaction of the Magistrate for such refusal or omission, he shall be liable to a fine, which may extend to fifty rupees:

Provided that every person who shall have paid any fine under the provisions of this section shall thereupon cease to be a member of the panchâyat and shall not be liable to be re-appointed a member of panchâyat for the space of two years from the day of the payment of such fine.

Exemption from serving on panchâyat.

9. It shall be lawful for any person who shall have served for the term of two years as a member of any panchâyat to retire from such panchâyat, and the person so retiring shall not without his own consent be appointed to serve on such panchâyat until after the expiry of two years from the date of such his retirement.

Power to remove members.

10. It shall be lawful for the Magistrate of the district by an order in writing signed by him, to remove or discharge any member of a panchâyat.

Number of chaukídárs to be determined by panchâyat.

11. The panchâyat shall determine the number of chaukídárs to be employed in a village:

Provided that there shall be at least two chaukídárs appointed in every village in which there are one hundred and fifty houses, and one additional chaukídár for every complete number of one hundred houses beyond such number of one hundred and fifty.

Panchâyat to determine salaries of chaukídárs.

12. The panchâyat shall from time to time determine the monthly salaries of the chaukídárs to be appointed, provided that such salaries shall not be less than three nor more than six rupees per month.

Salaries to be raised by assessment.

13. The panchâyat shall raise in each village, by a yearly assessment, the amount required for the pay of the chaukídárs, together with fifteen per cent. above such amount, in order to provide for payment of the expenses of collection and losses from the non-realization of the rate from defaulters.

Persons liable to assessment.

14. All owners or occupiers of houses in any village, and any zamíndár who has within such village a kachahrí for collecting rents, shall be liable to assessment for the purposes of this Act.

Nature and amount of assessment.

15. The rate to be levied in any village for the purposes of this Act shall be an assessment according to the circumstances and the property to be protected of the persons liable to the same:

Provided that the amount to be assessed on any one person shall not be more than one rupee per mensem, and that all persons who, in the opinion of the panchâyat, are too poor to pay half an anna a month shall be altogether exempt from assessment under this Act.

Time and form of assessment.

16. The panchâyat shall, two clear months before the first day of the year current in the village, make such assessment upon the several persons liable thereto, and shall enter the same in a list, which shall specify the name of each person liable to be assessed, the trade, business or other description of such person, and the amount payable monthly by such person, and such list shall be by them published in some conspicuous part of the village at least fifteen days before the expiry of the said two months.

Power to continue former assessment.

17. The panchâyat may, instead of making a new assessment, revise or continue the assessment of the current year, and the assessment so revised or continued shall be in like manner published.

Duration of assessment.

18. Every assessment so made, revised or continued, shall commence and take effect upon the first day of the year current in the village next ensuing the date of publication thereof, and shall remain in force for one year, and until some other assessment properly made or revised under the provisions of this Act shall commence and take effect.

Power to review assessment.

19. Any person dissatisfied with the amount at which he has been assessed may, within one month after any publication of any assessment, apply to the panchâyat, either orally or in writing, for a revision of the assessment, and the panchâyat may confirm the assessment or amend the same.

Magistrate may revise assessment.

20. No appeal, as of right, shall lie from any order passed by a panchâyat as regards the revision of any assessment; but the Magistrate may call for the general list of assessment in any village, and shall so call for such list on the application of ten rate-payers in such village, and may pass such orders on any list so called for as he may think proper.

Rate payable quarterly in advance.

21. Every rate to be payable under this Act shall be payable by equal quarterly [a] instalments; the instalment of rate on account of each quarter [b] shall be due on the first day of such quarter.[c]

Allowance for collecting rate.

22. Every panchâyat shall appoint one of their number to receive and collect the rate; and to grant receipts for the same and to keep the accounts thereof, and it shall be lawful for the panchâyat to permit the person so appointed to retain any sum not exceeding six per cent. of the amount collected by him to repay the costs of such collection.

Constitution of chaukídárí fund.

23. The proceeds of every assessment to be levied under this Act in any village, together with any sum which may become applicable to the purposes of this Act, shall constitute a fund, which shall be called the chaukídárí fund of such village.

Application of surplus.

24. If at the end of any year any surplus of the fund may remain unexpended, such surplus shall be carried to the credit of the chaukídárí fund for

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a, b, c. See Bengal Act No. I of 1871.

the ensuing year, and the amount to be raised by assessment in such ensuing year may in such case be reduced by the amount of such surplus.

Payment of instalment to be made within seven days.

25. Every person liable to pay any sum assessed upon him under this Act shall, within seven days after the day upon which any instalment of rate may be payable by him, pay or tender such instalment to the person appointed by the panchâyat to receive the same.

List of defaulters to be made out.

26. Immediately after the tenth day of each quarter[a] the panchâyat of every village to which the provisions of this Act extend shall prepare a list of the persons who may have failed to pay their respective instalments of the rate for such quarter,[b] shewing the amount due from each of such defaulters, and shall publish such list in some conspicuous part of the village.

Power to distrain for rates.

27. The collecting member of the panchâyat shall thereupon issue a writing in the form in schedule (A), signed by him, authorizing the chaukídár, or such other person as may be therein named, to levy, by the distraint and sale of a sufficient portion of the moveable property of such defaulters, the amount of their respective arrears, together with sums equal to such arrears respectively by way of penalty.

Manner of executing distress.

28. The person so authorized shall seize such moveable property of such respective defaulters as he shall deem sufficient, and shall make an inventory of all moveable property so seized, and shall at the same time give notice by beat of drum of the time and place where such moveable property shall be sold.

Such time of sale shall be not less than two days, nor more than five days, from the time of the proclamation thereof.

Sale in execution of warrant.

29. In case any defaulter shall not, within the time specified by such notice, pay the amount of such arrears payable by him, together with an equal amount by way of penalty, the moveable property distrained, or such portion of it as may be necessary, shall be sold by public outcry at the place and time specified, and the proceeds shall be applied in discharge of such amount and penalty, and the surplus, if any, shall be returned to the person in possession of the moveable property at the time of the seizure.

Objections to levy how to be made.

30. Whenever any person whose name may have been included in any list of defaulters may dispute his liability to pay the amount mentioned in such list or any portion thereof, he may apply to the Magistrate, either orally or in writing, stating the grounds of his objection, and the Magistrate shall examine his objection and pass such order thereon as to him shall seem proper.

Custody of property distrained.

31. Any property distrained under the provisions of section 28 shall remain in the custody of the chaukídár, or of some other person whom the panchâyat may appoint in that behalf.

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[a], [b] See Bengal Act No. I of 1871, section 5.

32. All goods and chattels, except plough-cattle and tools and implements of trade or agriculture, found in or upon any house or land occupied by any defaulter, shall be deemed to be his property, and shall be liable to be distrained and sold for the recovery of the arrear. What property may be distrained for rates.

If the goods and chattels distrained belong to any person other than the defaulter, the defaulter shall be liable to indemnify the owner of such goods and chattels for any damage he may sustain by reason of such distress, or by reason of any payment he may make to avoid such distress or any sale under the same.

33. No arrears of any rate payable under this Act shall be recovered by distress after the expiration of one year from the day on which the same shall have become due. Distress not to be levied after a year.

34. No distress levied by virtue of this Act shall be deemed unlawful, nor shall any party making the same be deemed a trespasser, on account of any defect or want of form in any list, assessment, notice, summons, power, writing, inventory or other proceeding relating thereto, nor shall such party be deemed a trespasser from the commencement on account of any irregularity afterwards committed by him, but all persons aggrieved by such irregularity may recover full satisfaction for any special damage sustained by them, in any Court of competent jurisdiction, subject to the provisions of section 63 of this Act. Irregularities not to avoid distraint.

35. The panchâyat shall appoint the persons to be chaukídárs under this Act, and may, from time to time, with the sanction of the Magistrate, dismiss any such chaukídárs. Appointment and dismissal of chaukídárs.

36. On the appointment of any chaukídár the panchâyat shall give to him a certificate signed by them of such his appointment, specifying therein the rate of salary at which he has been appointed, and he shall within seven days produce such certificate at the Police-station within the limits of which his village may be situate, and the officer in charge of such station shall cause the particulars of such certificate to be registered in a book to be kept in such station for the purpose of such registration, and shall report the same to the Magistrate. Appointment of chaukídárs to be registered by Police.

37. It shall be lawful for the Magistrate, if he think fit, to dismiss any chaukídár for any misconduct or neglect of duty. Power to Magistrate to dismiss chaukídárs.

38. Every chaukídár who may be guilty of any wilful misconduct in his office, or neglect of his duty, such misconduct or neglect not being an offence within the meaning of the Indian Penal Code, and not being of so grave a character as in the opinion of the Magistrate to require his dismissal from his office, shall be liable to a fine which shall not exceed the amount of one month's salary. Power to fine chaukídárs.

39. Every chaukídár appointed under the provisions of this Act shall perform the following duties:— Duties of chaukídár.

1st,—he shall give immediate information to the officer in charge of the

Police-station within the limits of which the village is situate, of every unnatural, suspicious or sudden death which may occur, and of every offence specified in schedule (B) of this Act which may be committed within the village of which he is chaukídár, and he shall further keep the Police informed of all disputes which are likely to lead to any riot or serious affray:

2nd,—he shall arrest all proclaimed offenders, and all persons whom he may find in the act of committing any offence specified in schedule (B) of this Act:

3rd,—he shall observe, and from time to time report to the officer in charge of the Police-station within the limits of which the village may be situate, the movements of all bad characters in such village:

4th,—he shall report to the officer in charge of such Police-station the arrival of suspicious characters in the neighbourhood:

5th,—he shall present himself at such station twice in each week, if such station be within two miles of the village, and if it be more remote once in each week or once in each fortnight as the Magistrate may direct:

6th,—he shall supply any local information which the Magistrate or any officer of Police,[a] or any other officer thereunto authorized by an order in writing of the Lieutenant-Governor, may require:

7th,—he shall obey the orders of the panchâyat in regard to keeping watch in the village and other matters connected with his duties as chaukídár.

Procedure on arrest by chaukídárs.

40. Whenever the chaukídár may arrest any person, such chaukídár shall forthwith take the person so arrested to the Police-station within the limits of which such village is situate, provided that if the arrest is made at night, such person shall be so taken, as soon as convenient, on the following morning.

Control of chaukídárs by panchâyat.

41. The panchâyat shall exercise a general control over the chaukídárs, and every member of such panchâyat who may know or be informed of the commission within the village of any offence specified in schedule (B) of this Act, shall forthwith cause the same to be reported by the chaukídár to the officer in charge of the Police-station within the limits of which the village may be situate, and on failure of the chaukídár, such member shall himself report the same to such officer.

Fines to be carried to chaukídárí fund.

42. All fines and penalties levied under this Act shall be carried to the credit of the village chaukídárí fund and be applied as a portion thereof.

Mode of paying chaukídárs.

43. Every chaukídár shall receive month by month the full amount of his salary from the member of the panchâyat appointed to collect the tax.

Application by chaukídár

44. Whenever the salary of any month shall not be paid in full to any chaukídár on or before the fifteenth of the month following, such chaukídár may

[a] See Bengal Act No. I of 1871, section 6.

apply to the Magistrate, who shall call upon the panchâyat within ten days to shew cause why they should not pay the amount due to such chaukídár. for payment of his salary.

45. If it shall appear to the Magistrate that there is no money to the credit of the village chaukídárí fund, and that the panchâyat shall not have taken sufficient steps to realize from defaulters the arrears due from them, the Magistrate shall issue his warrant for the realization of the chaukídár's pay from the members of the panchâyat by distress and sale of their moveable property, and shall therein charge some person, therein named, with the execution thereof, and upon such warrant such proceedings shall be had as hereinbefore directed to be had on any writing issued for the recovery of any arrears of the tax by this Act directed to be levied; and the amount due to such chaukídár shall be paid to him out of the amount so levied, and the residue thereof, after payment thereout of all costs and expenses incurred in or about the execution of such warrant, shall be paid to the persons from whom such distress shall have been so levied. Mode of realizing chaukídár's salary.

46. Any member of a panchâyat, from or by whom any sum shall have been levied or paid under the provisions of the section last preceding, thall be reimbursed the amount so levied from or paid by him from any surplus of the village chaukídárí fund which may remain at the end of the year in which such sum shall have been so levied or paid. Reimbursement of member of panchâyat by whom salary is paid.

47. If it shall appear to the Magistrate that the deficiency of the funds to the credit of the village chaukídárí fund has been caused by an erroneous assessment, the Magistrate shall call for the assessment and revise the same as he shall think proper, and shall remit the same to the panchâyat, and such panchâyat shall forthwith proceed to levy the sums respectively appearing to be due by such revised assessment. Power to revise assessment.

PART II.

Chaukídárí Chákarán Lands.[a]

48. All chaukídárí chákarán lands before the passing of this Act assigned for the benefit of any village in which a panchâyat shall be appointed, shall be transferred in manner and subject as hereinafter mentioned to the zamíndár of the estate or tenure within which may be situate such lands. Chaukídárí chákarán lands to be transferred to zamíndárs.

49. All lands so transferred shall be subject to an assessment which shall be fixed at one-half of the annual value of such land according to the average rates of letting land similar in quality in the neighbourhood of such land, and such assessment shall be made by the panchâyat of the village. Assessment to be fixed at one-half value.

[a] See Bengal Act No. V of 1876, section 375.

Collector to make transfer.

50. Such assessment when made by the panchâyat shall be submitted to the Collector of the district, and he or any other officer exercising the powers of a Collector by him thereunto appointed may approve, or revise and approve, the same (provided that it shall be lawful for the zamíndár to contest the assessment before it is so approved), and after such approval the Collector of the district shall, by an order under his hand in the form in schedule (C), transfer to such zamíndár such land subject to the assessment so approved.

Effect of transfer.

51. Such order shall operate to transfer to such zamíndár the land therein mentioned subject to the amount of assessment therein mentioned, and subject to all contracts theretofore made, in respect of, under, or by virtue of, which any person other than the zamíndár may have any right to any land, portion of his estate or tenure, in the place in which such land may be situate.

Assessment to be permanent charge on lands.

52. The amount of the assessment mentioned in such order shall be a permanent yearly charge on such land, and shall be payable to the collecting member of the panchâyat yearly in advance on the first day of the year current in the village by the person for the time being entitled to recover the rents of such land from the occupier thereof.

Mode of realization.

53. Every such assessment shall be deemed to be a demand to be realized in the manner hereinafter provided.

Notice of arrear.

54. Whenever such assessment shall be in arrear for the space of fifteen days after it shall have become payable, the collecting member of the panchâyat shall forward to the Collector of the district in which the land so assessed is situate, notice of the amount of such arrear and the name of the person liable to pay such assessment in the form in schedule (D) annexed to this Act.

Mode and effect of sale.

55. Immediately after the receipt of the said notice the Collector or other officer authorized to hold sales under the law for the time being in force for regulating sales of land for arrears of revenue, shall proceed without any preliminary notice for payment to issue a notification for sale under section 6 of Act XI of 1859,[a] passed by the Legislative Council of India, and unless the arrears be paid within the time mentioned in such notification shall sell such and according to the provisions of such law as if such land were an estate within the meaning of Act VII of 1868[b] passed by the Lieutenant-Governor of Bengal in Council; and all provisions of the law for the time being in force with respect to the sale of such estates shall apply to the sale of such land, and every such sale shall have such and the same force and effect as if the same were a sale of an estate for arrears of its own revenue, and such land shall be held by the purchaser thereof subject to such assessment, but freed from all

[a] See *supra*, p. 393.

[b] See *supra*, p. 582.

other charges and incumbrances save those to which he would have been liable if the said land had been an estate sold for arrears of its own revenue.

Application of proceeds of sale.

56. Such Collector shall, out of the proceeds of such sale, after defraying the costs of and attending such sale, pay to the collecting member of the panchâyat, within one week after such sale shall have become final, the amount due for arrears of such assessment, and pay the balance of such proceeds to the person named in the notice from the collecting member of the panchâyat as the person liable to pay the assessment of such land.

Right to service from occupier of transferred land to cease.

57. When any land shall have been transferred to any zamíndár under the provisions hereinbefore contained, the right to the performance of any services to any person by the occupier of such lands in respect of his occupation thereof shall wholly cease and determine.

Lieutenant-Governor of Bengal may appoint commission.

58. In any district or part of a district in which may be situated lands before the passing of this Act assigned for the maintenance of an officer to keep watch in any village and to report crime to the Police, it shall be lawful for the Lieutenant-Governor of Bengal, by an order to be published in the *Calcutta Gazette*, to appoint a commission, consisting of one or more persons, to ascertain and determine the chaukídárí chákarán lands and other lands before the passing of this Act assigned for the maintenance of an officer to keep watch in any village and to report crime to the Police in such district.

Power to refer to commission question relating to chákarán land.

59. Whenever in any district in which such commission shall have been appointed any question shall arise whether any or what lands are chaukídárí chákarán lands, or other lands before the passing of this Act assigned for the maintenance of an officer to keep watch in any village and to report crime to the Police, it shall be lawful for such commission to enquire into such question.

Powers of commission.

60. In enquiring into such question the commission shall, as far as may be necessary for the purposes of this Act, exercise all such and the same powers as are conferred by Regulation VII of 1822[a] and the Regulations and Acts amending the same upon a Collector making a settlement of land-revenue.

Duties of commission and effect of their order.

61. Such commission shall demarcate the boundaries of any lands which they may determine to be chaukídárí chákarán lands or other lands before the passing of this Act assigned for the maintenance of an officer to keep watch in any village and to report crime to the Police, and shall make orders under their hand setting forth the land which they shall have determined to be chaukídárí chákarán lands or other lands as aforesaid, and the boundaries thereof, and the name of the village for the benefit of which such lands are assigned, and distinguishing whether such lands be or be not chaukídárí chákarán lands or other lands as aforesaid.

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[a] See *supra*, p. 178.

Every such order shall be final and conclusive respecting all matters hereinbefore required to be set forth in such order so far as the same shall be therein set forth.

PART III.

Miscellaneous Provisions.

Powers of panchâyat may be exercised by Magistrate.

62. All powers vested in the panchâyat for the appointment and dismissal of chaukídárs, and for fixing the number of chaukídárs to be appointed, and the rate of their pay, and for making and levying the assessments hereinbefore directed to be made, may be exercised by the Magistrate or any person whom the Magistrate may by any writing under his hand authorize in that behalf, in case the panchâyat shall, for fifteen days after a notice from the Magistrate to exercise such powers or any of them, refuse or neglect to exercise the same.

Indemnity-clause.

63. No action shall be brought against the Magistrate nor against any panchâyat, nor against any member thereof, nor against any of his or their officers, nor against any person acting under his or their direction, for anything done or professing or purporting to be done under this Act, until the expiration of one month next after notice in writing shall have been delivered or left at the office of the Magistrate and at the place of abode of such person, explicitly stating the cause of action, and the name and place of abode of the intended plaintiff; and unless such notice be proved, the Court shall find for the defendant, and every such action shall be commenced within three months next after the accrual of the cause of action, and not afterwards, and if any person to whom any such notice of action is given, shall before action brought, tender sufficient amends to the plaintiff, such plaintiff shall not recover.

Control vested in Commissioners of circuit.

64. The Commissioner of circuit shall have a general controlling power over all proceedings of panchâyats and Magistrates and Magistrates of districts under this Act.

Rules for guidance of panchâyat.

65. The Lieutenant-Governor of Bengal may, from time to time, frame rules for the guidance of the panchâyats, for regulating the practice and procedure of any commission in trying or determining any question referred to them, and for any other purposes connected with this Act, and may, from time to time, alter, vary or revoke the same, and shall publish every such rule or alteration, variation or revocation of a rule in the *Calcutta Gazette*,[a] and the rules for the time being in force shall, from their publication, have such and the same force and effect as if they were herein enacted.

Duty of zamíndárs to report crimes not affected.

66. Nothing in this Act contained shall diminish or in any way affect any liability, duty or obligation of any zamíndár under any law in force at the

[a] See *Calcutta Gazette*, 18th April, 1877, Part I, p. 519.

time of the passing of this Act to report crimes or offences occurring within his estate or tenure.

Village watch where panchayat not appointed not affected.

67. Nothing in this Act contained, save the provisions of sections 58, 59, 60 and 61, shall affect any lands before the passing of this Act assigned for the maintenance, in any village in which a panchayat may not be appointed, of an officer to keep watch in such village and to report crime to the Police, and every such officer in such village shall be bound to perform the same duties, and shall have the same rights unto such lands, and may be removed and a successor to him appointed, as if this Act had not been passed.

Commencement.

68. This Act shall commence and take effect in those districts or sub-divisions of districts in the Provinces subject to the Lieutenant-Governor of Bengal to which the said Lieutenant-Governor shall extend it by an order published in the *Calcutta Gazette*, and thereupon this Act shall commence and take effect in the districts and sub-divisions of districts named in such order, on the day which shall be in such order provided for the commencement thereof.

Short title.

69. This Act may be called "The Village Chaukídárí Act, 1870."

SCHEDULE A—(*referred to in section 27*).

Form of Distraining Warrant.

Act VI of 1870.

VILLAGE CHAUKÍDÁRÍ FUND.

On behalf of the panchayat of ( ). Whereas the several persons named in the list at foot hereof have made default in payment to the said panchayat of the sums in the said list set opposite to their respective names, you are hereby authorized and required to levy by distress and sale of a sufficient portion of the moveable property of the said defaulters the said several sums set opposite to their respective names, together with additional sums by way of penalty respectively equal to the sums set forth.

Dated day of 18

(*Sd.*) *R. B.*,

Collecting Member

Name and description.	Amount.	When due.	Penalty.
B. G.	1-0	1 Baisákh	1-0
K. B.	0-2	1 "	0-2

SCHEDULE B—(*referred to in sections 39 and 41*).

Offences to be reported and for which Chaukídár may arrest

Murder, culpable homicide, rape, dacoity, robbery, theft, mischief by fire, house-breaking, counterfeiting coins, causing grievous hurt, riot and all attempts and preparations to commit, and abetments of, the said offences.

SCHEDULE C—(*referred to in section 50*)

Form of Transferring Order.

District of

I, Collector of

do by this order under my hand made in pursuance of Act VI of 1870, passed by the Lieutenant-Governor of Bengal in Council, transfer to zamíndár of the chaukídárí chákarán lands of the village of in the said bounded and containing bíghás kátás: to hold unto the said his heirs and assigns subject to the annual assessment of rupees payable under the provisions of the said Act to the chaukídárí fund of the said village, and also subject to all contracts binding the said in respect of any lands, portion of the said situated within the said village.

The day of 18

(*Sd.*) *J. S.*,
Collector of

SCHEDULE D—(*referred to in section 54*).

Form of Notice of Arrears of Assessment on Land

Pancháyat of

To *A. B.*, Esq., *Collector of*

Sir,

I hereby notify to you that the sum of rupees being for one year's assessment payable in respect of the chaukídárí chákarán lands of this village transferred to the zamíndár of became due on the day of and that the same is still unpaid, and that of is the person liable to pay such assessment.

The day of

(*Sd.*) *E. F.*,
Collecting Member of Pancháyat.

ACT No. I of 1871.

Received the Lieutenant-Governor's assent on the 7th of January 1871, and the Governor General's assent on the 16th idem.

An Act to amend the Village Chaukídárí Act, 1870.

Preamble.

WHEREAS it is expedient to amend the provisions of the Village Chaukídárí Act, 1870; It is enacted as follows:—

Act not to apply till chaukídár appointed.

1. Nothing in the said Act shall be held to repeal the provisions of section 21, Regulation XX of 1817,[a] in any village or union until a chaukídár shall have been appointed therein under the provisions of the said Act.

Panchayat in certain cases to make assessment within one month.

2. Whenever a panchayat shall have been appointed in any village, the Magistrate may direct that such panchayat shall, within one month after their appointment, make an assessment for the residue of the year according to the year current in the village upon the persons liable to the payment of the chaukídárí rate in such village, and shall enter the same in a list containing the particulars required to be set forth in the list mentioned in section 16 of the said Act.

Such list shall, on its completion, be forthwith published in some conspicuous part of the said village.

Commencement of assessment.

3. Every assessment so made shall commence and take effect upon the expiration of fifteen days from the publication of such list.

Effect of assessment.

4. Every such assessment shall be deemed to be an assessment made in pursuance of the provisions of the said Act, and the amounts thereby assessed may be collected and enforced accordingly.

Rate payable quarterly instead of monthly.

5. In section 21 of the said Act VI of 1870,[b] the word "quarterly" shall be substituted for the word "monthly," and in sections 21 and 26, the word "quarter" shall be substituted for the word "month" wherever such word occurs in the said sections; and the said sections shall be read and construed as if the words hereby directed to be substituted had been originally inserted in place of the words for which they are hereby respectively directed to be substituted.

New clause substituted in section 39 of Act VI of 1870.

6. In section 39 of the said Act, the following clause shall be substituted for clause six thereof:

[See *supra*, p. 684.]

and the said section shall be read and construed as if the said clause had been originally inserted therein in place of the clause for which it is hereby directed to be substituted.

Construction

7. This Act shall be read with, and as part of, the said Act VI of 1870.

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[a] See *supra*, p. 130.

[b] See *supra*, p. 678.

ACT No. II of 1871.

Received the Lieutenant-Governor's assent on the 7th of January 1871, and the Governor General's assent on the 16th idem.

An Act to amend the procedure for the recovery of arrears of land-revenue in respect of tenures not being estates.

Preamble. WHEREAS it is expedient to amend the procedure for the recovery of arrears of land-revenue in respect of tenures not being estates; It is enacted as follows:—

Construction. Act VII of 1868 passed by the Lieutenant-Governor of Bengal in Council shall be read and construed as if in place of section 11 thereof the following section were inserted and substituted:—

11. [*See supra*, p. 582.]

ACT No. III of 1871.

Received the Lieutenant-Governor's assent on the 13th of March 1871, and the Governor General's assent on the 18th idem.

An Act to increase the fees for the survey of steam-vessels.

Preamble. WHEREAS the fees now by law chargeable in respect of the grant of surveyors' certificates of the sufficiency of steam-boats are insufficient to provide for the remuneration of competent persons where two surveyors are employed in making such survey, and it is generally necessary to employ two surveyors; It is hereby enacted as follows:—

Increase of fees. 1. Whenever two surveyors shall be employed in making a survey under the provisions of Act V of 1862 [a] or Act I of 1868 [b] passed by the Lieutenant-Governor of Bengal in Council, the owner or master of the steam-vessel surveyed shall pay to each of the surveyors making the same a fee calculated on the tonnage of the vessel according to the rates in schedule B to the said Act V of 1862 annexed, and such further fee as is provided in section 5 of Act I of 1868 passed by the Lieutenant-Governor of Bengal in Council.

Construction. 2. This Act shall be read with, and as part of, the said Act V of 1862 and Act I of 1868.

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[a] See *supra*, p. 454. [b] See *supra*, p. 577.

ACT No. IV OF 1871.

Received the Lieutenant-Governor's assent on the 20th of March 1871, and the Governor General's assent on the 28th idem.

An Act for the better sanitation of Púri and other towns in Orissa and regulation of lodging-houses therein.

Preamble.

WHEREAS it is expedient to make provision for the licensing and regulation of pilgrims' lodging-houses at Púri and on the main lines of road leading to Púri, and for the better sanitation of Púri and other towns in Orissa; It is enacted as follows:—

Interpretation.

1. The words and expressions following shall, in this Act, have and bear the meanings and construction hereby assigned to them, unless there be something in the subject or context repugnant to such meaning or construction, that is to say:—

"Lodger."

the word "lodger" shall mean an inmate liable to pay hire for accommodation in any house:

"Owner."

the word "owner" shall mean the person entitled to the immediate possession of any house:

"Lodging-house."

the expression "lodging-house" shall mean a house licensed under this Act for the reception of lodgers:

"Keeper of a lodging-house."

the expression "keeper of a lodging-house" shall mean the person to whom a license for the reception of lodgers in any house under this Act shall be granted:

"The Magistrate."

the expression "the Magistrate" shall mean the Magistrate of the district of Púri or of any other district or part of a district to which this Act may be extended, or other officer in charge of the office of such Magistrate, or specially invested with power under this Act.:

"The Health Officer."

the expression "the Health Officer" shall mean the person whom the Lieutenant-Governor of Bengal shall appoint under this Act.

Appointment of Health Officer.

2. The Lieutenant-Governor of Bengal is hereby empowered to appoint a Health Officer to control and direct the sanitation and conservancy of the town of Púri and of the main lines of road leading thereto.

Power to Magistrate to grant license.

3. From and after the passing of this Act, it shall be lawful for the Magistrate, upon the application of the owner of any house in the town of Púri, to grant to such applicant a license for the reception of lodgers in his said house, if the Magistrate be satisfied that such house is fit to be used as a lodging-house.

Form of application for license.

4. The application for such license as in the preceding section is mentioned shall be in writing, and shall be in the form set forth in schedule (A)

of this Act, and shall be subscribed and verified by the applicant at the foot or end thereof in the manner provided by law for the verification of plaints.

Form of license.

The license for the reception of lodgers to be granted by the Magistrate under this Act shall be in the form set forth in schedule (B) of this Act.

Health Officer when required to report upon lodging-house.

5. The Health Officer shall, when required by the Magistrate or the owner of any house, certify to the Magistrate the sanitary state and condition of such house, and the nature and extent of the accommodation which such house is capable of affording to lodgers.

Restrictions on power of granting license.

6. No license for the reception of lodgers shall be granted under this Act by the Magistrate, unless the Health Officer shall certify in writing under his hand to the Magistrate that in his judgment the house, for the licensing of which for the reception of lodgers application shall have been made as aforesaid, is sufficiently ventilated, and has, within a reasonable distance from such house, a sufficient supply of water fit for human consumption, and also sufficient privy-accommodation, and is otherwise fit for the reception of lodgers.

The said Health Officer shall also certify to the Magistrate the largest number of lodgers which such house can, having regard to the number of persons permanently residing therein, accommodate with safety to the health of such lodgers; and no license under this Act shall be granted by the Magistrate for the reception in any house of any number of lodgers in excess of the number of lodgers which the Health Officer shall have so certified as aforesaid to be the largest number which such house could accommodate with safety to the health of such lodgers.

Fine on lodging-house keeper not taking out license.

7. After the passing of this Act, every owner of any house in the town of Púri not licensed as a lodging-house under this Act, who shall suffer or permit any lodger to be an inmate of such house, shall be punished by a fine not exceeding two rupees for every lodger for each night during any part of which such lodger shall be an inmate of such house.

Fee for Health Officer's certificate, and for license.

8. There shall be charged upon every certificate of the Health Officer, issued upon an application therefor by the owner of any house, a fee of one rupee; and upon every license, a fee, calculated at the rate of eight annas for each person, upon the entire number of lodgers mentioned in such license shall be payable.

Duration of license.

9. Every license under this Act shall, unless revoked or suspended, continue and be in force for twelve calendar months from the day of its date.

Power to inspect lodging-houses.

10. It shall be lawful for the Magistrate or the Health Officer, or for any other person whom the Magistrate shall by any writing thereunto authorize, at any reasonable time to enter into any lodging-house, and to inspect and examine the same and every part thereof, not being in the exclusive use and occupation of women, who, according to the custom and manners of the country, ought not to be compelled to appear in public; provided always, that

if, in the judgment of the Magistrate, such reason shall exist as to necessitate an entry into, and inspection and examination of, such apartments so exclusively used and occupied by such women as aforesaid, it shall be lawful for the Magistrate, upon reasonable notice of such his intention being affixed to the house in which such women are residing, to enter into and inspect and examine, or to authorize under his hand any other person to enter into and inspect and examine, such apartments of such women as aforesaid.

Power to exempt lodging-house from inspection.

11. It shall be lawful for the Magistrate to exempt from inspection the house or portion of a house occupied by any lodger, so long as they shall be occupied by such lodger, or until further order by the Magistrate.

Keeper of lodging-house to produce license.

12. Every keeper of a lodging-house shall produce to the Magistrate, or any officer by the Magistrate authorized to demand the same, the license of such house, whenever he shall be thereunto required by the Magistrate or such officer.

Keeper of lodging-houses to report accidents deaths and sickness, and names of persons in lodging-houses.

13. Every keeper of a lodging-house shall make a report, to the person in charge of the nearest Police-station, of each birth, death or grave accident, or serious sickness which may occur in the lodging-house of which he is keeper, forthwith after such birth, death or accident or sickness shall have occurred; and shall also, every day, during such periods of the year as the Magistrate shall from time to time appoint, before noon, make a report in writing to the person in charge of such station, stating the number of persons who shall have been inmates of such lodging-house during the preceding night, and distinguishing in such list males from females and adults from children.

Lodging-house keepers to exhibit number of house.

14. Every keeper of a lodging-house shall exhibit, and keep exhibited, on a conspicuous portion of the front of such house, the number of the license of such house, and the number of lodgers which such person is licensed to accommodate, plainly and legibly set forth in Bengálí and Uriya characters.

Report to be kept of inspection and examination of lodging-house.

15. Upon the inspection and examination of any lodging-house, the Magistrate or Health Officer or other person authorized as aforesaid to make such inspection and examination, shall record in a register-book to be kept for that purpose, a succinct report of the result of such inspection and examination.

Statement under Act to be true.

16. Every person who shall make any application, statement or report, in pursuance of the provisions of this Act, shall be deemed to have been bound by express provision of law to state the truth therein.

Penalties.

17. Every keeper of a lodging-house in which there shall be, at any time, a number of inmates in excess of the aggregate number of inmates resident in such house at the date of the application for the license thereof and of the number of lodgers mentioned in such license, or a number of lodgers in excess of the number of lodgers mentioned in such license, or who shall suffer or permit any person, other than a member of his family or a servant in his

actual employ, to be an inmate of his house after the revocation or during the suspension of his license, or who shall refuse or neglect without reasonable cause, within one hour after demand, to produce to the Magistrate or other officer as aforesaid the license for his said lodging-house when he shall be thereunto required, or who shall omit, without like reasonable cause, to make such report as by section 13 of this Act he is required to make, or to expose or keep exposed the number of his license, and the number of lodgers he is licensed to accommodate as hereinbefore is required, shall be liable to be punished by a fine not exceeding fifty rupees for every such offence.

Persons in charge of lodging-houses responsible.

18. Whenever the keeper of any lodging-house shall not be actually in charge thereof, then the person who shall be actually in charge thereof shall, as well as the keeper thereof, be liable to the penalties hereby provided for any infraction of the provisions of this Act.

Determination of offences.

19. All offences against this Act shall be heard and determined according to the provisions of chapter sixteen of the Code of Criminal Procedure, and the provisions applicable to summons cases.[a]

Power to revoke or suspend licenses.

20. It shall be lawful for the Magistrate to revoke or suspend any license granted under this Act to the keeper of any lodging-house who, after the grant of such license, shall have been convicted of any offence against the provisions of this Act, or whose house shall have been certified by the Health Officer to have become unfit or unsafe for occupation as a lodging-house.

Power to reduce number of lodgers for which license is granted.

21. It shall be lawful for the Magistrate, when it shall be proved to him that any licensed lodging-house is unfit for the accommodation of the number of lodgers mentioned in the license, to reduce the number of lodgers mentioned in the license thereof to such number as may be able to obtain suitable accommodation in such house, and to enter in the license of such house such diminished number.

Fees and fines recoverable under Act to go towards sanitary improvement of Púri.

22. All fines and fees, paid or levied under this Act, shall be applied for and towards the sanitary improvement of the town wherein may be situate the house in respect of which such fees may have been paid, or wherein may have been committed the offence in respect of which such fines may have been levied or paid, or for or towards the sanitary improvement of the pilgrim halting places on the main roads to Púri, in such manner as the Lieutenant-Governor of Bengal may from time to time, by notification in the *Calcutta Gazette*, direct.

Applications to be in writing.

23. All applications to the Magistrate or Health Officer under this Act shall be made in writing.

[a] See Act No. X of 1872, schedule V.

Depositing dirt, &c., in highways and sewers.

24.[a] Whoever deposits, or permits his servants to deposit, any dust, dirt, dung, ashes or refuse, or filth of any kind, or any animal-matter, or any broken glass or earth-ware or other rubbish, in any public highway, except in such convenient spots, and in such manner, and at such hours, as shall be fixed by the Magistrate with the assent of the Health Officer, or throws or puts, or permits his servants to throw or put, any such substance into any public sewer or drain, or into any drain communicating therewith, shall be liable to a fine not exceeding ten rupees.

Permitting offensive matter to run into drains or upon highways.

25. Whoever causes or allows the water of any sink or sewer, or any other offensive liquid matter belonging to him or being on his land, to run, drain or be thrown or put upon any public highway, or causes or allows any offensive matter from any sewer or privy to run, drain or be thrown into a surface-drain in any such highway, shall be liable to a fine not exceeding ten rupees.

Notice to cut trees.

26. The Magistrate may give notice to the owner or to the occupier of any land to cut and trim any hedges or trees which overhang any public highway so as to obstruct the passage, or to interfere with the free circulation of air.

Penalty on occupier of house not removing filth.

27. Whoever being the occupier of a house in or near any public highway, keeps or allows to be kept for more than twenty-four hours, otherwise than in some proper receptacle, any dirt, dung, bones, ashes, night-soil or filth, or any noxious or offensive matter, in or upon such house, or in any out-house, yard or ground attached to and occupied with such house, or suffers such receptacle to be in a filthy or noxious state, or neglects to employ proper means to cleanse the same, shall be liable to a fine not exceeding fifty rupees.

Keeping cattle near highways.

28. Whoever being the owner or keeper of any cattle, sheep or pigs, suffers the stall, pen or place in which they are kept, in or near any public highway, to be in a filthy or noxious state, or neglects to employ proper means to remove the filth therefrom, shall be liable to a fine not exceeding twenty rupees, and to a fine not exceeding three rupees for every day after conviction for such offence during which the offence is continued.

Power to license public necessaries.

29. The Magistrate may license such necessaries for public accommodation as he from time to time may think proper; and whoever shall keep any public necessary without such license, or having a license for a public necessary, shall suffer the same to be in a filthy or noxious state, or shall neglect to employ proper means for cleansing the same, shall be liable to a fine not exceeding fifty rupees, and such license may be withdrawn.

Clearing drains and cesspools.

30. Whoever being the owner or occupier of any private drain, privy or cesspool, shall neglect or refuse, after warning from the Health Officer, to

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[a] Sections 24 to 34, both inclusive, cease to be in force in every municipality under Bengal Act No. V of 1876: see that Act, section 2.

keep the same in a proper state, shall be liable to a fine not exceeding fifty rupees.

Power to set apart tanks for domestic use.

31. It shall be lawful for the Magistrate, with the assent of the Health Officer, to appropriate to the domestic use of the inhabitants of Púri or of any other towns to which this Act may be extended, any tank not being a private tank; and whoever shall bathe in any tank so appropriated to the domestic use of the inhabitants of the place, or shall wash or cause to be washed therein any animal, or any wool, cloth or wearing apparel, or any utensils for cooking or other purposes, or leather or the skin of any animal, or any foul or offensive thing, or shall put or cause to enter therein any animal, or any gravel, stone, dirt or rubbish, or any dirt, filth or other noxious thing, or shall cause or suffer to run, drain or be brought thereunto the water of any sink, sewer, drain or any other unwholesome or offensive liquid, or shall do anything whatsoever whereby the water in any such tank shall be in any degree fouled or corrupted, shall be liable to a fine not exceeding fifty rupees.

Notice to drain and clear vegetation.

32. Whenever any lands or premises being private property or within any private enclosure appear to the Health Officer to be by reason of thick or noxious vegetation or want of drainage in a state injurious to health or offensive to the neighbourhood, it shall be lawful for the Magistrate to require, by notice in writing, the owner or occupier of the premises to clear and remove such vegetation, or drain such premises.

Power to drain tanks, &c.

33. The Magistrate may from time to time, as he may see fit, drain off into any sewers, and cleanse and fill up or otherwise abate, any stagnant pool, ditch, tank, pond or other receptacle of water which shall appear to the Health Officer to be useless or unnecessary, or likely to prove injurious to the health of the inhabitants, whether the same be or be not within any private enclosure or be or be not the private property of any person.

Power to perform works of which notice is given.

34. In case any person to whom any notice, warning or order under the provisions of sections 26, 30, or 32 shall be given shall, without sufficient reason, for eight clear days after service upon him of such notice or order, neglect or refuse to comply therewith, or shall not proceed with due diligence in the completion of the works thereby required, it shall be lawful for the Magistrate to cause to be performed the works in or by such notice required to be performed, and for that purpose to enter into or upon, and to cause workmen and servants to enter into and upon, lands belonging to, or in the occupation of, such person, and to do all things needful or useful to the performance of such works, and the Magistrate shall make an order under his hand certifying the expense incurred in or about the performance of such works and ordering the payment of such amount by the owner or by the occupier of the

lands on which such works may have been performed, and such amount may be recovered from the person named therein as if it had been a fine for an offence against any of the provisions of this Act.

Service of notices.

35. Every notice, warning, order or summons, under any of the preceding sections of this Act, may be served personally upon the person to whom the same is addressed, or may be served by leaving the same at his usual or last known place of abode with some adult male member or servant of his family, or, if it cannot be so served, may be served by being put up on some conspicuous part of such place of abode.

If such notice, warning, order or summons relates to any house, building or land, and the place of abode of the person whom it is intended to affect by such notice, warning, order or summons is unknown, or is not within the town in which such house, building or land is situate, the same shall be deemed to be duly served if put up in some conspicuous part of the house, building or land to which the same relates.

Indemnity-clause.

36. No action shall be brought against the Magistrate, nor against the Health Officer, nor against any of his or their officers, nor against any person acting under his or their direction, for anything done or professing or purporting to be done under this Act, until the expiration of one month next after notice in writing shall have been delivered or left at the office of the Magistrate or at the place of abode of such person, explicitly stating the cause of action, and the name and place of abode of the intended plaintiff; and unless such notice be proved, the Court shall find for the defendant, and every such action shall be commenced within three months next after the accrual of the cause of action, and not afterwards; and if any person to whom any such notice of action is given shall, before action brought, tender sufficient amends to the plaintiff, such plaintiff shall not recover.

Power to make bye-laws.

37. It shall be lawful for the Magistrate, with the assent of the Health Officer, and the civil surgeon of the district if he be not the Health Officer, to make bye-laws, and to repeal, alter and amend the same subject to the confirmation hereinafter mentioned, for the management of all matters connected with the conservancy of the town of Púri or of any other town to which this Act may be extended, and for regulating the encampments, lodging and halting-places of pilgrims on their journey to or from Púri or such other town as aforesaid, and for preventing the spread of epidemics amongst such pilgrims while at Púri or such other town as aforesaid, or on the journey thereto or therefrom, and to affix fines as penalties for the infringement of such bye-laws.

Provided that no bye-law shall be repugnant to any law in force, and that no fine for any one infringement of a bye-law shall exceed twenty rupees, and

that in case of a continuing infringement no fine shall exceed five rupees for every day after notice from the Magistrate of such infringement.

Bye-laws to be confirmed by Lieutenant-Governor.

38. No bye-law or alteration of a bye-law shall have effect until the same shall have been approved and confirmed by the Lieutenant-Governor of Bengal, and shall have been published for such length of time and in such manner as the Lieutenant-Governor of Bengal shall order.

Provision for extending Act to Bhubaneswar or Jájipur.

39. It shall be lawful for the Lieutenant-Governor of Bengal, from time to time by order published in the *Calcutta Gazette*, to extend the provisions of this Act or any part of it to Bhubaneswar and to Jájipur, or to any of the towns or villages in Orissa used as pilgrim-stages or to any villages in Orissa on the line of road habitually traversed by pilgrims, and this Act shall commence and take effect in Púri upon the first day of June 1871, and in any other place to which it may be extended for such time as shall be in that behalf appointed in the order extending the same, or in any other order in like manner published.

Short title.

40. This Act may be called "The Púri Lodging-house Act, 1871."

SCHEDULE A.

Application for License.

I, , the owner of house No. , in the town of hereby request that a license may be granted to me, under the provisions of Act No. IV of 1871 of the Council of the Lieutenant-Governor of Bengal for making laws and regulations, for the reception of lodgers in my said house.

1	2	3	4	5	6	7
Name of the street in which the house is situated, or other sufficient description of its locality.	Name of owner applying for license.	Whether sole owner of house or not.	Whether applicant has been previously convicted of any offence against the provisions of this Act, or not.	Number of lodgers applicant desires to obtain license for accommodating in his said house.	Number, description and size of apartments in which applicant desires to accommodate lodgers.	Number of inmates now residing in applicant's said house.

I, , the above-named, do declare that what is stated in the above application for a license is true to the best of my information and belief.

(*Signature*)——

SCHEDULE B.

LICENSE.

A. B., , the owner of house No. in the town of Púri, is hereby licensed to receive lodgers in his said house in apartments thereof, subject to the provisions of Act No. IV of 1871 of the Council of the Lieutenant-Governor of Bengal for making laws and regulations.

The registered number of this license, upon which a fee of rupees has been paid, is No.

(*Signature*)

Magistrate of. *District.*

ACT No. V OF 1871.

Received the Lieutenant-Governor's assent on the 20th of March 1871, and the Governor General's assent on the 10th of May 1871.

An Act to facilitate drainage in certain districts of Bengal.

Preamble.

WHEREAS it is desirable that provision should be made for the better drainage and improvement of certain lands in the districts of Hugli and Burdwan; and whereas a certain scheme with plans and estimates for the drainage and improvement of such lands has been laid before the Lieutenant-Governor of Bengal, and it is desirable that power should be given for carrying into effect such scheme, or some modification thereof; It is enacted as follows:—

Short title.

1. This Act shall be called "The Hugli and Burdwan Drainage Act."

Interpretation.

2. The following words shall, for the purposes of this Act, have the respective meanings hereby declared, unless a contrary intention appear from the context:—

"The Commissioners."

"the Commissioners" shall mean the Drainage Commissioners to be appointed under this Act:

"Proprietor of lands."

"proprietor of lands" shall be taken to mean a person having a perpetual tenure or interest, at a fixed rate of revenue or rent, in such lands entitling him to the immediate occupation thereof, or to the receipt of rent from the raiyats thereof, or from a tenant holding directly from him under a temporary lease.

Commencement.

3. This Act shall take effect in the said districts of Hugli and Burdwan on such day as the said Lieutenant-Governor shall by any order published in the *Calcutta Gazette* provide for the commencement thereof.

Lieutenant-Governor to

4. The Lieutenant-Governor of Bengal may appoint, for such period as to him may seem fit, any number of persons not less than seven, of whom the

appoint Commissioners.

majority in number shall be proprietors or part proprietors of lands to be affected by the works mentioned in the said scheme and plans, or their managers, to be Drainage Commissioners for carrying out this Act, and the said Lieutenant-Governor may from time to time remove any of such Drainage Commissioners, or may add to their number, and may appoint other persons in the place of any Commissioners dying, retiring, being removed or ceasing to reside in such districts :

Provided that the majority in number of the Commissioners shall always be persons qualified as aforesaid.

Lieutenant-Governor to appoint chairman.

5. The Lieutenant-Governor shall from time to time appoint one of the persons so appointed Commissioners as aforesaid to be chairman of the Commissioners.

Meetings of Commissioners and quorum.

6. The Commissioners shall meet for the transaction of business once at least in every quarter.

Such meeting shall be held upon such day and at such hour as the Commissioners shall from time to time determine.

At every meeting of the Commissioners five members shall constitute a quorum.

Emergent meetings.

7. The chairman of the Commissioners may, whenever he thinks fit, and shall, upon request made in writing by three of the Commissioners, call an emergent meeting of the Commissioners.

Presidency and adjournment of meetings.

8. The chairman shall preside at every meeting of the Commissioners.

In the absence of the chairman, the Commissioners present at any meeting may choose one of their number to preside.

The president of any meeting at which a quorum of the Commissioners shall be present may, with the consent of the meeting, adjourn the meeting from time to time and from place to place.

Transaction of business at meetings.

9. If a poll be taken at any meeting of the Commissioners, the votes of the Commissioners present shall be taken by the President, and the determination supported by the greater number of votes given at such poll shall be deemed to be the determination of the Commissioners at such meeting.

The president shall have a second or casting vote in all cases of equality of votes.

Scheme to be laid before Commissioners and published.

10. Within one month after the Commissioners shall have been appointed, the said scheme, plans and estimate, or some modification or alteration thereof, shall be laid before them, and the Commissioners shall forthwith cause a notification in the language of the district to be published in every village in which may be situate any portion of the lands to be affected by the works proposed in such scheme and plans.

Every such notification shall be in the form in schedule (A), and may be published by posting the same in some conspicuous part of the village, and at the Court of the Munsif within whose jurisdiction, and at the thánd within whose limits, such village is situate.

Commissioners to consider scheme.

11. The Commissioners may, at some meeting to be held not less than fifteen days after some such notification shall have been published, proceed to ascertain what proprietors shall have assented to the adoption of the scheme, and in case the proprietors of not less than one moiety of the bhíls and swamps to be drained shall have assented to such adoption, shall proceed to consider the said scheme, plans and estimates, and all objections thereto; and may adopt the same, or alter and modify the same and adopt the scheme, plans and estimates so altered or modified, or may disapprove or reject such scheme.

Power to proceed with portion of scheme.

12. In case the proprietors of one moiety of the bhíls and swamps to be drained shall not assent to such scheme, but the proprietors of one moiety of the bhíls or swamps to be affected by some portion of such scheme shall so assent, it shall be lawful for the Commissioners to re-submit such portion of the scheme to the Lieutenant-Governor, and with his approval, to proceed thereupon in manner aforesaid.

Scheme approved by Commissioners to be laid before Lieutenant-Governor.

13. In case the Commissioners shall adopt such scheme, plans and estimates or any modification or alteration thereof, they shall, within one month after such scheme, plans and estimates, or some modification or alteration thereof shall have been adopted by them, cause the same to be laid before the Lieutenant-Governor of Bengal, and the said Lieutenant-Governor may sanction the scheme, plans and estimates so adopted or any portion thereof as to him shall seem fit.

Power to reconsider and modify scheme.

14. The Commissioners may, with the previous assent of the Lieutenant-Governor, at any time re-consider any scheme, plans or estimates adopted by them, and add to or alter or modify the same; and when such addition, modification or alteration shall have been adopted by them, they shall cause the same to be laid before the Lieutenant-Governor of Bengal, and the said Lieutenant-Governor may sanction such addition, alteration or modification, or any portion thereof as he may think fit, and thenceforth the provisions of this Act shall apply to such addition, modification or alteration as if it had been portion of the original scheme, plans or estimates; and every such modification or alteration, after it shall have been adopted, shall be published by the Commissioners as to them shall seem fit.

No such modification or alteration shall be adopted at a meeting at which the majority of the members present are not qualified as in section 4 is mentioned.

Publication of modified schemes.

15. No modification or alteration under section 11 of any scheme by which any lands other than those to be affected by some scheme theretofore published may be affected shall be adopted by the Commissioners until the same shall have been published for not less than fifteen days, according to the provisions of section 10, in every village in which may be situated any portion of the lands to be affected by such modification, nor shall any such modification or alteration be adopted unless the proprietors of not less than one moiety of such lands shall assent thereto.

Powers for acquisition of land.

16. After the Lieutenant-Governor of Bengal shall have sanctioned any such scheme, plans and estimates or some portion thereof, it shall be lawful for him to take proceedings under the provisions of Act X of 1870, passed by the Governor General of India in Council, or any other law for the time being in force for the acquisition of land for public purposes, in order to obtain any land likely to be needed for the works mentioned in such sanctioned scheme, plans and estimates or portion thereof.

Lieutenant-Governor may order scheme to be carried out.

17. It shall be lawful for the said Lieutenant-Governor, if he think fit, to order the improvements specified in such sanctioned scheme, plans and estimate or portion thereof, to be made by an officer to be thereunto appointed by the said Lieutenant-Governor, and, subject to the sanction of the Governor General of India in Council, to order the advance for the purpose from the public funds of such sum of money as may be required for the purpose of making such improvements, and it shall be lawful for such officer to cause the works specified in such scheme and plans to be performed, and for that purpose by himself, his agents and workmen to enter into or upon any lands, and to perform such works thereupon as may be required.

Power to Lieutenant-Governor to modify scheme.

18. It shall be lawful for the Lieutenant-Governor at any time after the said works shall have commenced, by an order to sanction any alteration or modification of such scheme or plan suggested to him by the officer in charge of the works, provided it shall appear to him that by such modification or alteration the general character and scope of the work will not be altered or greater expenditure will not be incurred thereon than would be incurred in the work as originally sanctioned, and after such sanction, such alteration or modification shall be taken to be a portion of the scheme adopted by the Commissioners in substitution for the portion of such scheme thereby altered, and every such modification or alteration shall be published by the Commissioners as to them shall seem fit.

Reports to be made and expenditure certified.

19. The officer in charge of the works shall, until the same shall be finally completed, once in every three months make a detailed report to the Commissioners of the progress of the works and the expenditure thereupon from the day up to which the next preceding report shall have been brought down, and

the Comptroller of Public Works Accounts to the Government of Bengal, or other officer authorized in that behalf by the Lieutenant-Governor of Bengal, shall from time to time certify the sums advanced from the public funds for such works and the dates of the respective advances, and every such certificate shall be final and conclusive evidence of the sums therein stated to have been advanced having been so advanced, and of the dates upon which they shall have respectively been so advanced.

Advances be repaid,

20. The sums so advanced shall be repaid by the proprietors of the land improved with interest at the rate of five per cent. per annum from the time of the respective advances.

Apportionment of charge.

21. The Commissioners shall, within one month after the completion of the works shall have been certified to them by the officer in charge of the works, proceed to apportion the sums to be chargeable against each of the proprietors of any land reclaimed or improved, and such sums shall be determined by the Commissioners with reference to the quantity of land in the possession of each which will be directly benefited by such improvements, and the benefit derived by such land.

Charge on improved lands not to exceed value of improvement.

22. The amount to be apportioned by the Commissioners against the proprietor of any lands which before the commencement of the works were to some extent fit for cultivation, but were improved by the said works, shall not in respect of such lands exceed the amount of the increased value which in the opinion of the Commissioners shall have been conferred on such lands by such works.

Commissioner to report apportionment.

23. The Commissioners shall, so soon as conveniently may be after having apportioned the sums to be chargeable against any lands, make and publish a report, and shall therein state the several lands which they shall have declared to be chargeable, the names of the respective proprietors thereof, and the sum to be chargeable in respect of each, distinguishing in such report the lands which shall have been before the commencement of such works wholly unfit for cultivation, from the lands which were then to some extent fit for cultivation but were improved by the said works.

In default of Commissioners, officers to make apportionment and report.

24. If the Commissioners shall, for the space of twelve months after the completion of the entire works shall have been certified to them as aforesaid, or within six months after any report and apportionment shall have been returned to them for further consideration and revision under the provisions hereinafter contained, neglect or refuse to apportion the sums chargeable as aforesaid, or to make such report as hereinbefore is directed, the Lieutenant-Governor may appoint such officer or officers as to him shall seem meet to make or consider and revise such apportionment and report, and every such apportionment and report shall have the same force and effect as if the same had been made by the Commissioners.

Report to be published.

25. Whenever any apportionment and report shall have been made in pursuance of the provisions hereinbefore contained, the Commissioners or person making such report shall cause such report to be published by affixing in every village in which may be any lands mentioned therein a copy of so much thereof as relates to such lands, and also a like copy at every Munsif's Court within whose jurisdiction, and every Police-tháná within whose limits, such village or any part thereof shall be situate.

Appeal against apportionment

26. Any person who may deem himself to be aggrieved by any such apportionment may, within one month after such report shall have been published, appeal to the Commissioner of the division against such apportionment, and such Commissioner shall cause notice of the day fixed for the hearing of such appeal to be published by affixing such notice in a conspicuous place in every village, and in the Court of every Munsif within whose jurisdiction, and at every Police-tháná within the limits of which, may be situate any of the lands mentioned in such report, and such Commissioner shall hear such appeal, and the objections thereto of all persons interested, and may affirm the same, or revise, vary or alter such apportionment as to him shall seem fit, or may return the same to the Commissioners or officer making the report and apportionment for further consideration and revision, and every such apportionment and report when revised, varied or altered shall, so far as the same shall have been varied or altered, be published and be liable to appeal in like manner as the original report, and the decision of the Commissioner of the division upon any appeal under this section shall be final and conclusive.

Final determination of apportionment.

27. Whenever the Commissioner of the division shall affirm any report and apportionment, or whenever one month shall have elapsed from the publication of any report without any appeal therefrom having been preferred, the Commissioner of the division shall pass an order declaring the proportion of sums chargeable against such lands to be finally determined, and shall cause such order to be published in such manner as to him shall seem fit.

Collector to serve notice of apportionment.

28. It shall be lawful for the Collector of the district to serve a notice in the form in schedule (B) upon any proprietor of lands reclaimed or improved the proportion of sums chargeable against which shall have been finally determined, and who shall not have paid such proportion; and in case such proportion shall not be paid, nor an engagement entered into within one month after the service of such notice, the Collector shall make an order in the form in schedule (C), and thereby require the person named therein to pay the amount so apportioned.

Orders of Collectors appealable.

29. Any order of the Collector with reference to the term of payment by instalments under the provisions of this Act shall be appealable to the Com-

missioner of the division, if such appeal be preferred within thirty days from the date of such order.

Recovery of sums payable under Act.

30. Every sum to be payable by any person under any order or engagement under the provisions of this Act, if the same be not paid within one month from the day upon which the same is payable under such order or engagement, shall be recoverable from the proprietor of the land improved, with interest at the rate of five per cent. per annum, by sale of such land under the provisions of section 11 of Act VII of 1868[a] passed by the Lieutenant-Governor of Bengal in Council, as if the same were an arrear of Government revenue payable in respect of such land, and in case the sale of such land shall not realize the amount payable by him, then as a demand recoverable as arrears of revenue.

Recovery of unrealized portion of charge on improved land.

31. In case any sum payable in respect of lands which had before the commencement of such works to any extent been fit for cultivation cannot be realized by the ways and means provided in section 30, so much of such sum as shall not have been so realized shall be a charge upon the lands which had theretofore been wholly unfit for cultivation, and shall be levied from the proprietors thereof as if the same were included in an order passed under the provisions of section 27, and in such and the same proportions as the sums under the report aforesaid finally determined to be payable by each of such proprietors in respect of such lands bear to the entire sum charged in respect of such lands.

Power to repay advances.

32. It shall be lawful for any proprietor who shall have entered into an engagement for the repayment of any sum apportioned as aforesaid, at any time to repay to the Collector the entire amount of the principal sum which shall be then remaining due and interest thereupon up to the day of payment, and thenceforth the said agreement shall be terminated and all liabilities in respect thereof for principal or interest shall determine.

Proprietors to recover proportion of payment from subordinate tenants.

33. Every proprietor of lands charged with any sum under the provisions aforesaid may, after he shall have paid or entered into an engagement for the same, recover from any person from time to time holding immediately from him any temporary lease or other subordinate tenure benefited by the works in respect of which such payment may be secured or made, an annual sum calculated at the rate of ten per cent. per annum upon such portion of such payment as shall bear to the entire payment the same proportion as the area of the lands of such person benefited by such works bears to the area of the entire lands of such proprietor benefited by such works.

Such sum to be payable by equal instalments upon the days appointed for

[a] See *supra*, p. 582.

the payment of the rent of such tenure, and to be recoverable as if the same were an arrear of rent.

Provided that such proprietor shall not be entitled to recover under this section from any such person as aforesaid more than the entire amount of the payment which such proprietor has made or engaged to make, with interest thereon at the rate of five per cent. per annum, and that the sum annually recoverable in any case shall not exceed the increase in the annual value of the particular lands benefited.

Proportion of payment to be recovered by mesne tenants.

34. Any person who shall have made any annual payment under the provisions of section 23 or of this section may recover from any person from time to time holding immediately from him a temporary lease or other subordinate tenure of any portion of the lands benefited by the works in respect of which such payment shall have been made, such sum as shall bear to the entire payment so made the same proportion as the area of the entire lands in respect of which such payment shall have been calculated may bear to the area of the entire lands of such subordinate holder which shall have been benefited by such works.

Provided that the sum annually recoverable in any case under this section shall not exceed the increase in the annual value of the particular lands benefited.

Drainage-works subject to laws relating to embankments.

35. All outlets and water-channels, natural or artificial, which shall be altered, enlarged, excavated or cut under the provisions of this Act, and the construction and maintenance of embankments and of dams and works in the same, shall, save as hereinafter provided, be subject to the law for the time being in force regulating the construction and maintenance of public embankments and public rivers, channels and outlets.

Site of works to be in trust for proprietors.

36. All lands which shall have been taken under the provisions of this Act for the purpose of the construction of works therein or thereon shall be vested in the Collector of the district for the time being in trust for the proprietors of the land reclaimed or improved.

Power to appoint servants.

37. It shall be lawful for the chairman of the Commissioners to appoint such servants and officers, save engineers and their subordinates, as may be required for the purposes of this Act, and to dismiss them as to him shall seem fit, and to cause such servants and officers to be paid such salaries as may appear to the Commissioners to be proper.

Cost of compensation to be deemed part of expense of construction.

38. All amounts which shall be payable as a compensation for any lands taken under the powers of this Act, or damage inflicted under the exercise of such powers, or for the salaries of officers, servants or establishments, or for surveys or valuations, or for costs or charges incurred in carrying out the provisions of this Act, and all other sums in any way expended in carrying out

the purposes of this Act, shall be deemed to be part of the expenses for the construction of the work, and all advances for the same with interest after the rate aforesaid shall be included in the apportionment of advances and recoverable in the manner hereinbefore provided.

Cost of maintenance of works.

39. The expense of keeping in efficient order and repair any improvements or works effected under this Act shall be paid by the proprietors of the lands which shall have been benefited by such works and lands, to the Collector in the proportions of their original contributions, and all sums payable to the Collector under the provisions of this section shall be recoverable from the persons liable thereto as if the same were arrears of Government revenue and the same had been charged on such lands.

Application of rights of fishery.

40. In the case of any channel, drain or outlet the right of fishery of the same shall belong to the proprietor or proprietors of the lands drained by such channel, drain or outlet, if they do not exceed two in number; but if the number of proprietors be greater, the right of fishery shall be let to the highest bidder by public auction, and the proceeds of such letting shall be paid to such proprietors in the proportion of their respective contributions.

Powers of Commissioners when to cease.

41. When the apportionment of the repayment of the advances shall have been finally completed, the powers of the Commissioners shall cease.

Powers for taking evidence.

42. The Commissioners and the Commissioner of the division shall have the powers conferred on Courts by the Code of Civil Procedure for compelling the attendance of witnesses and the production of evidence in any enquiry or appeal which they or he may be empowered to make or entertain under the provisions of this Act.

Power to determine proprietorship of lands.

43. Whenever more persons than one may claim or be alleged to be proprietors of any lands within the meaning of this Act, the Commissioners may, in a summary way, determine which of such persons is for the purposes of this Act to be deemed to be the proprietor of such lands, and shall determine to be proprietor of such lands any person who, being the owner of a superior tenure or interest in such lands, shall dispute the perpetual nature or the fixity of rent of any subordinate tenure therein held immediately from him, and shall pay the proportion of advances chargeable against such lands.

Determination of Commissioners as to proprietorship of lands to be final.

44. Whenever the Commissioners may determine any person to be proprietor of lands within the meaning of this Act, such determination, save so far as any personal liability may be imposed on any person by such determination, shall be for the purposes of this Act final and conclusive, but such determination shall not be evidence in any proceeding not being under this Act.

Service of notices.

45. All notices under this Act required to be served may be served by delivering the same to the person to be served, or by posting the same upon

the door of his dwelling-house, and in case such person cannot be found and his dwelling-house be not known, then by posting the same on some conspicuous part of the land to which such notice relates, and at the Munsif's Court within whose jurisdiction, and the Police-thána within the limits of which, such land is situated.

Proceedings not invalidated by formal errors.

46. No proceeding under this Act shall be defeated or invalidated by reason of any defect in the number or property of assenting proprietors, nor by any defect or omission in the publication or service of any notification, notice or order; and every order and report of the Commissioners and of the Collector shall be conclusive evidence that all notifications and notices hereby required as preliminary thereto had been duly published and served, and that all other preliminaries thereunto had been duly performed, and save as is hereinbefore provided shall be final and conclusive.

SCHEDULE A—(*referred to in section 10*).

HUGLÍ AND BURDWAN DRAINAGE ACT.

To all whom it may concern.

Take notice that it is proposed to cause to be drained bhíls, swamps and lands in the districts of Hugli and Burdwan: a portion of the to be drained lies in the village of . Plans and provisional estimates of the works proposed are now lodged in and may be inspected by any person interested from o'clock on every day and day till the day of next. All proprietors of bhíls or swamps to be affected by this drainage who wish the same to be effected and are willing to bear their proportion of the cost thereof, which cost cannot at present be definitely ascertained, are requested to send to the Drainage Commissioners their assent in writing signifying therein, so far as possible, the nature and extent of their interest in such bhíls or swamps on or before the day of 18 , and any person having any objection to the execution of the said works may send in objections thereunto on or before the said day.

SCHEDULE B—(*referred to in section 28*).

HUGLÍ AND BURDWAN DRAINAGE ACT.

To

Take notice that the Commissioners of Drainage of the Hugli district, having apportioned against you the sum of as your

contribution in respect of the lands of , you are hereby required, within one month from the date of the service of this notice, to pay to me the said sum of rupees . together with interest at the rate of five per cent. per annum, or to enter into an engagement for the payment of the same by instalments extending over a period of not more than ten years.

Collector.

SCHEDULE C—*(referred to in section 28).*

HUGLÍ AND BURDWAN DRAINAGE ACT.

Collectorate of

I, , Collector of Hugli, do hereby order of within one month to pay to the Collector of the sum of rupees with interest at the rate of five per cent. per annum from the day of 18 , till the date of payment, being the contribution of the said to the advances made in respect of the drainage-works heretofore effected under this Act, in default whereof his said land may be sold. Any portion of such sum which may not be realized by the sale of such land will be realized from the said as an arrear of Government revenue.

day of 18

Collector.

ACT No. VII OF 1871.

Received the Lieutenant-Governor's assent on the 19th of April 1871, and the Governor General's assent on the 10th of May 1871.

An Act to amend the Calcutta Port Improvement Act, 1870.

Preamble.

WHEREAS it is expedient to increase the number of the Commissioners for making improvements in the port of Calcutta, and to enable the Commissioners to compel ships to load or unload at their jetties as may be deemed by them most suited to the requirements of the port; It is enacted as follows:—

Increase in number of Commissioners.

1. In the second section of the Calcutta Port Improvement Act, 1870, the words "persons in number not more than twelve nor less than nine" shall be substituted for the words "nine persons;" and the said section shall be read and construed as if the words hereby directed to be substituted therein had

been inserted therein in the place and stead of the words for which they are hereby directed to be substituted.

Power to confine wharves either to landing or shipping goods.

2. In the sixty-second section of the said Act, the words "or for landing or for shipping," shall be inserted after the words "landing and shipping" wherever the same words occur in the said section; and the same section shall be read and construed as if the words hereby directed to be inserted therein had been originally therein inserted.

Power to require vessels to remove from wharves.

3. The Commissioners may by notice in writing order the master, owner or agent of any vessel to remove such vessel from any wharf, quay, stage, jetty or pier belonging to the Commissioners, and unless such vessel shall be removed therefrom within thirty-six hours after service of such notice on the officer in charge of such vessel, or the master, owner or agent thereof, it shall be lawful for the Commissioners to charge in respect of such vessel, for the use by such vessel of such wharf, quay, stage, jetty or pier, such sum not exceeding fifty rupees for each day of twenty-four hours or portion of such day, after the expiry of such thirty-six hours during which such vessel shall remain at such wharf, quay, stage, jetty or pier, as to the Commissioners shall seem fit.

Construction.

4. This Act shall be construed with, and as part of, the said Calcutta Port Improvement Act, 1870.

ACT No. IX of 1871.

Received the Lieutenant-Governor's assent on the 3rd of June 1871, and the Governor General's assent on the 17th idem.

An Act for the construction of a bridge across the river Hugli between Howrah and Calcutta.

Preamble.

WHEREAS it is expedient that a bridge should be constructed across the river Hugli between Howrah and Calcutta; It is enacted as follows:—

Interpretation.

1. The following words and expressions shall have the meanings hereby assigned to them, unless where a contrary intention shall appear from the context:—

"Commissioners."

the word "Commissioners" shall mean the Commissioners for making improvements in the port of Calcutta incorporated by Act V of 1870,[a] passed by the Lieutenant-Governor of Bengal in Council:

Magistrate.

"Magistrate" includes a Justice of the Peace for Calcutta and any person exercising all or any of the powers of a Magistrate.

Power to make bridge.

2. It shall be lawful for the Lieutenant-Governor of Bengal to cause a bridge to be constructed across the river Hugli, between Calcutta and

[a] See *supra*, p. 651.

Howrah, at such place at or near Armenian ghát as he may select, and also such ways and approaches to such bridge as he shall deem necessary, and to cause to be maintained such bridge and approaches.

Power to charge tolls.

3. The said Lieutenant-Governor shall form a scale of tolls, fees and charges for the use of the said bridge, and may from time to time vary such scale; and such tolls, fees and charges shall be leviable in respect of the several matters mentioned in the schedule hereto annexed:

Provided always that such tolls, fees and charges shall not exceed the respective rates mentioned in the said schedule, and that it shall be lawful for the Lieutenant-Governor to exempt from payment of tolls all or any passengers or goods conveyed on the East Indian Railway or all or any carriages or persons using the said bridge for the purpose of going to or returning from the station of the said railway at Howrah.[a]

Power to levy fees.

4. Towards meeting the charges incurred in the construction and maintenance of the said bridge and approaches, the Lieutenant-Governor of Bengal may levy or cause to be levied, from the date of the opening of the said bridge for traffic, the following fees on goods and passengers conveyed on the railway of the East Indian Railway Company into and from the station at Howrah, *viz.*:—

On every maund of goods	...	...	2 pie
On every passenger	...	...	3 „

Provided that the said Lieutenant-Governor may at any time lower the said fees, and may also exempt any goods or any passengers from payment of the said fees.

Appointment of person to collect tolls and take charge.

5. The said Lieutenant-Governor may appoint such person or persons as he shall think fit to collect tolls, fees and charges under this Act, and also to take charge of the said bridge and to superintend the traffic thereon.

Lieutenant-Governor may make bye-laws.

6. It shall be lawful for the Lieutenant-Governor of Bengal from time to time to make bye-laws for the guidance of persons employed by him under this Act;

for the safe and convenient use of the bridge to be constructed under the provisions of this Act, and approaches thereto;

for the passage of ships, boats and vessels through the said bridge;

for the mode of payment and levy of the tolls, fees and charges leviable under this Act;

or otherwise for carrying out the purposes of this Act;

and from time to time to vary, alter or revoke any such bye-law so made by him.[b]

Penalty for

7. No penalty for any one infringement of a bye-law shall exceed one

[a] See *Calcutta Gazette*, 30th December, 1874, p. 1853.
[b] See *Calcutta Gazette*, 2nd February, 1876, Part I, p. 119.

Infringement of bye-law.

hundred rupees, nor in case of a continuing infringement shall any penalty exceed fifty rupees *per diem* for every day after notice of such infringement shall have been given by or on behalf of the said Lieutenant-Governor to the person guilty of such infringement.

Bye-laws and tables of tolls to be exhibited.

8. The Lieutenant-Governor of Bengal shall cause the said bye-laws, and the tables of tolls, fees and charges leviable, to be printed in the English, Hindústání, Hindí and Bengálí languages and characters, and to be hung up and kept hung up at the approaches to the said bridge.

Power to collect tolls through East Indian Railway Company.

9. It shall be lawful for the East Indian Railway Company and the said Lieutenant-Governor to make such arrangement or agreement for the collection of tolls, fees and charges by the said Company in respect of persons, animals, carriages and goods crossing the said bridge to or from the station of the said Company at Howrah, or conveyed into or from the said station, as to the said Company and the said Lieutenant-Governor shall seem fit, and upon such agreement being made the said Company shall levy the said tolls, fees and charges.

Power to apply public funds in construction of bridge.

10. It shall be lawful for the said Lieutenant-Governor to advance for the construction of the said bridge and approaches thereto such sums out of the public funds as from time to time may be in that behalf sanctioned by the Governor General of India in Council.

Interest at the rate of four-and-a-half per centum per annum shall be charged on such sums respectively on the thirty-first day of March and on the thirtieth day of September in each year from the respective dates upon which such sums shall have been advanced up to the date of the opening of the said bridge for traffic; and all sums so charged for interest as aforesaid shall be deemed to be sums advanced within the meaning of this section.

Accounts to be kept of bridge.

11. The said Lieutenant-Governor shall cause such accounts as he shall think fit to be kept of all expenditure in or about the construction or maintenance of the said bridge and approaches, and the collection of such tolls, fees or charges, or otherwise in relation to the said bridge, and the payment of interest which may from time to time be payable to the Secretary of State for India in Council, and also of the income derived from such tolls, fees and charges, and shall from time to time apply the balance which shall remain of such income, after defraying thereout the current expenses incurred in relation to such bridge, and interest as aforesaid, in repaying to the Secretary of State for India in Council all sums which shall have been advanced from the public funds for the construction of the said bridge and approaches.

Power to nominate Commissioners.

12. It shall be lawful for the said Lieutenant-Governor of Bengal at any time after the commencement of this Act, if he think fit, with the assent of the Commissioners at a meeting, by order published in the *Calcutta Gazette*, to appoint the said Commissioners to carry out the purposes of this Act.

13. When and so soon as the Commissioners shall be so appointed, the Commissioners, subject however to the provisions hereinafter in that behalf contained, shall and may have and exercise all the powers and authorities, and shall perform all the duties, in and by sections 5 to 8 (both inclusive) of this Act or any of them, or in and by section 10, conferred or imposed on the said Lieutenant-Governor. Commissioners to have powers and duties of Lieutenant-Governor.

And all property procured for the construction of the said bridge and the approaches thereof, and the said bridge and approaches, and the tolls, fees and charges thereof, and the right to enforce all contracts respecting the same, shall become vested in the Commissioners. Property to vest in Commissioners.

14. All property vested in, or acquired by, the Commissioners under or by virtue of this Act, and all moneys payable to them under or by virtue of this Act, shall be held in trust for the payment of all sums which from time to time shall be payable to the Secretary of State for India in Council for moneys advanced or applied, or to be advanced or applied by or on behalf of the said Secretary of State for India in Council for the construction of a bridge across the river Hugli between Howrah and Calcutta, or otherwise under the provisions of this Act, and subject thereto upon trust for the purposes of this Act and not otherwise. Property of Commissioners to be applied for purposes of Act.

And nothing in this Act contained shall be construed so as to render the said Commissioners liable to make good any moneys payable by them under the provisions of this Act, or otherwise in relation to the said bridge, except out of property and moneys held by them in trust as aforesaid.

15. The aggregate sum which may under the provisions of section 10 of this Act become payable from the Commissioners to the said Secretary of State shall be by them re-paid to him in thirty equal annual instalments, the first of such instalments to be paid on the first day of April which shall be next after the completion of twelve calendar months from the date of the opening of the said bridge for traffic, and the other instalments to be paid respectively on the first day of April in every year, computing from the day fixed for the payment of the first of such instalments. Repayment of principal sums due.

16. Interest at the rate of four-and-a-half per cent. per annum shall be paid by the Commissioners to the said Secretary of State upon the aggregate amount which for the time being may be payable to him from them upon the thirty-first day of March and the thirtieth day of September in each year, the first of such payments of interest to be calculated from the date of the opening of the said bridge for traffic and to be made on the thirty-first day of March or the thirtieth day of September, whichever may first happen next after the opening of the said bridge for traffic. Payment of interest.

Power to re-pay before due date.

17. Notwithstanding the provisions of section 14, it shall be lawful for the Commissioners, if they think fit, out of any moneys which may come to their hands under the provisions of this Act, to re-pay to the said Secretary of State in Council any sum or part thereof which for the time being may remain payable to him under the provisions of this Act for principal, although the time fixed by the said section for the re-payment of the same shall not have arrived:

Provided always, that no such re-payment shall be made of any sum less than five thousand rupees, nor of any sum not being a multiple of five thousand rupees, and from and after any such re-payment no further sum as interest shall be payable to the said Secretary of State in Council in respect of the sum which shall have been so repaid.

Application of surplus-income.

18. Whenever the half-yearly accounts to be laid before the Lieutenant-Governor of Bengal under the provisions of this Act shall shew a surplus of income over expenditure, such surplus or so much thereof as the said Commissioners shall think fit may be invested by the Commissioners in the purchase in their corporate name of Government securities, and the interest thereof may be accumulated and invested in like manner, with power to the Commissioners at any time to dispose of any such securities, and to apply the proceeds and interest thereof, with the sanction of the Lieutenant-Governor, in or towards any of the purposes of this Act.

The said Government securities shall be held by the said Commissioners in trust for the purposes of this Act and not otherwise.

Estimate of income and expenditure to be submitted annually to Commissioners.

19. The salaried chairman or salaried vice-chairman of the Commissioners shall at a meeting, to be held within two months after the Commissioners shall have been appointed, lay before the Commissioners a separate estimate of the expenditure and income under this Act of the Commissioners for the period which shall be to come from the date of their appointment up to the first day of April then next ensuing; and shall also at a meeting, to be held in the month of February in each year, lay before the Commissioners a like estimate of such income and expenditure for the year commencing on the first day of April then next ensuing.

Every such estimate shall be in such form as the Lieutenant-Governor of Bengal shall by an order published in the *Calcutta Gazette* direct:

Provided always that such estimate shall be completed and printed, and a copy thereof sent by post or otherwise to each Commissioner, at least ten clear days prior to the meeting before which the estimate is to be laid.

Revision and passing of estimate.

20. It shall be in the discretion of the Commissioners at such meeting by resolution to pass or to reject, or to modify or alter, such estimate, and pass such estimate so modified or altered.

Estimate to be approved by Lieutenant-Governor.

21. Every such estimate, when passed by the Commissioners in pursuance of the provisions of this Act, shall be submitted to the Lieutenant-Governor of Bengal, and it shall be lawful for such Lieutenant-Governor either to approve of such estimate or to return the same with his remarks thereupon, and the Commissioners shall forthwith at a meeting proceed to re-consider such estimate in reference to such remarks, and to modify or alter the same, and to re-submit such estimates to the said Lieutenant-Governor, and it shall not be lawful for the Commissioners to expend any greater sum under such estimate than shall be approved by the said Lieutenant-Governor.

Tolls to be reduced on accumulation of sufficient reserve fund.

22. After the repayment of all sums advanced under the provisions of section 10 of this Act, whenever an estimate is submitted or re-submitted pursuant to the next preceding section, if the Government securities then held by the Commissioners shall have been declared by them at a meeting, and shall be considered by the Lieutenant-Governor, to form a sufficient reserve fund for the purposes of this Act, then the said Lieutenant-Governor shall so regulate the scale of fees, tolls and charges in relation to the said bridge as that the probable income derivable therefrom shall be no more than is sufficient to defray the expenditure set forth in the said estimate.

Power to make supplemental estimate.

23. It shall be lawful for the Commissioners, in the course of any year for which an estimate shall have been approved by the Lieutenant-Governor, to cause a supplemental estimate for the residue of such year to be prepared and laid before the Commissioners at a meeting, and thereupon such proceedings shall be had as in and by sections 19, 20 and 21, are directed to be had with respect to the estimate therein mentioned.

Approval of bye-laws.

24. No bye-law or alteration or revocation of a bye-law made by the Commissioners shall have effect until the same shall have been approved by the Lieutenant-Governor of Bengal by an order published in the *Calcutta Gazette*,[a] and no bye-law made by the Commissioners shall be approved by the said Lieutenant-Governor until it shall have been published for three weeks successively in the *Calcutta Gazette*; and when such bye-law shall have been so approved, all Courts of law shall take judicial notice thereof.

Lieutenant-Governor may revoke and annul bye-laws.

25. It shall be lawful for the Lieutenant-Governor of Bengal, by an order published in the *Calcutta Gazette*, to revoke, annul and make void any bye-law made by the Commissioners.

Certain provisions of Act V of 1870 extended.

26. When and so soon as the Commissioners shall be so appointed as aforesaid, all the provisions contained in sections 17, 18, 19, 21, 24, 25, 26, 27, 28, 29, 30, 31, 33, 34, 35, 36, 37, 38, 52, 53, 76, 79, 80, 88, 89, 90 and 91 of the said Act V of 1870,[b] passed by the Lieutenant-Governor of Bengal

[a] See *Calcutta Gazette*, 2nd February, 1876, Part I, p. 119.

[b] See *supra*, p. 651.

in Council, shall apply to this Act as if the said sections were re-enacted herein; and this Act and the said sections of the said Act shall, for the purpose of the construction of this Act, be read and construed together.

Limitation of suits.

27. No suit or other proceeding shall be commenced or prosecuted against any person for anything done or professing or purporting to be done in pursuance of this Act without giving to such person a month's previous notice of the intended proceeding and of the cause thereof, nor after tender of sufficient amends, nor after the expiration of three months from the accrual of the cause of suit or other proceeding.

No compensation for obstruction.

28. No person shall be entitled to any compensation for any loss or injury which he may sustain by reason of any obstruction to the navigation of the said river which may be caused by the said bridge, or by anything done in the construction thereof.

Penalty on evasion of toll.

29. Any person who shall wilfully evade, or attempt to evade, payment of any toll, fee or charge payable under this Act, shall be liable to a fine which may extend to fifty rupees or to imprisonment, simple or rigorous, which may extend to fourteen days, or to both.

Power to arrest.

30. Any person committing any offence against the provisions of the last section may be arrested by any officer to be by the Lieutenant-Governor, the Commissioners, or the said Railway Company thereunto appointed, and by such officer or any person by him thereunto authorized, or by any officer of Police, and forthwith conveyed before some Magistrate having jurisdiction in the place in which such offence shall have been committed, or to the nearest Police-station within the said jurisdiction.

Summary jurisdiction.

31. Whenever such person shall be brought before a Magistrate, such Magistrate may forthwith hear and determine the charge of such offence.

Offender to be forthwith brought to trial.

32. Whenever such person shall be taken to a Police-station, the officer in charge of such station shall, as soon as conveniently may be, cause him to be conveyed before some Magistrate having jurisdiction in the matter.

Short title.

33. This Act may be called "The Howrah Bridge Act, 1871."

SCHEDULE.

(*Referred to in section 3.*)

Maximum amount of tolls, fees and charges.

	Rs.	As.	P.
For every foot-passenger with or without load ...	0	0	3
For every horse	0	1	0
For every pony, mule or ass	0	0	6
For every buffalo	0	1	0

	Rs.	As.	P.
For every cow, ox or buffalo	0	0	6
For every calf, sheep, goat or pig	0	0	3
Or per score	0	3	0
For every two-wheeled vehicle without springs ...	0	1	0
Ditto ditto carrying goods or animals or passengers ...	0	3	0
For every two-wheeled vehicle with springs ...	0	2	0
For every four-wheeled vehicle without springs ...	0	2	0
Ditto ditto carrying goods or animals or passengers ...	0	4	0
For every four-wheeled vehicle with springs other than a second or third class hackney-carriage	0	4	0
For every maund of goods conveyed over the bridge on a tramway or railway	0	0	4
For every empty truck using a tramway or railway	0	4	0
For every locomotive steam-engine	1	0	0
Animals drawing any of the above vehicles to be charged in addition to the charge on the vehicle.			
For every second class hackney-carriage	0	1	0
Ditto ditto carrying goods or passengers	0	3	0
For every third class hackney-carriage	0	1	0
Ditto ditto carrying goods or passengers	0	2	0
For every palankeen and bearers	0	2	0

ACT No. X OF 1871.

Received the Lieutenant-Governor's assent on the 19th of July 1871, and the Governor General's assent on the 12th of August 1871.

An Act to provide for local rating for the construction and maintenance of roads and other means of communication.[a]

Preamble.

WHEREAS it is expedient to make provision for the construction and maintenance of roads and other means of communication within the territories of the Lieutenant-Governor of Bengal, and for that purpose to authorize the levy of a district road-cess on immoveable property situated therein, and also to constitute local committees for the assessment of the same, and for the management of the proceeds thereof; It is hereby enacted as follows:—

PART I.—PRELIMINARY.

Short title.

1. This Act may be called "The District Road Cess Act, 1871:"

[a] As to the collection of cesses under this Act, see *Calcutta Gazette*, 10th December, 1873, Part I, pp. 1344—1346.

Extent. It may extend to all the territories subject to the Lieutenant-Governor of Bengal which are not included within the limits of the town of Calcutta, or of any place or town to which the provisions of the "District Municipal Improvement Act," or the "District Towns Act, 1868," respectively, passed by the Lieutenant-Governor of Bengal, shall have been extended.

Commencement. And it shall commence and take effect in any district or districts situated in the said territories to which the said Lieutenant-Governor shall extend it by any order published in the *Calcutta Gazette*, and thereupon this Act shall commence and take effect in such district or districts on the day which shall be in such order provided for the commencement thereof.

Power to fix cess year. 2. The Lieutenant-Governor shall, by an order published in the *Calcutta Gazette*, fix the date from which all the cesses leviable under this Act in any district shall take effect therein, and the cess year in such district shall run from that date.

Interpretation. 3. In this Act the words in this section mentioned shall have the meanings therein attributed to them respectively, except where, from the context, a contrary intention appears:

"House." "house" includes any shop or warehouse, or place of business or factory, or other building or buildings within the same enclosure:

"Land." "land" means land which is cultivated, uncultivated or covered with water:

"Estate." "estate" means—

(1) any land or share in land subject to the payment to Government of an annual sum in respect of which the name of a proprietor is entered on the register known as the general register of all revenue-paying estates, or in respect of which a separate account may, in pursuance of section 10 or section 11 of Act XI of 1859,[a] have been opened;

(2) any land or share in land entered in the register of revenue-free tenures;

(3) any land the revenue or rent of which may be payable directly to the Collector or any person specially appointed by him to collect the same;

(4) any land acquired under any rules issued by or under authority of Government for the sale, grant or clearance of waste-lands:

"Tenure." "tenure" includes every interest in land, whether rent-paying or not, save an estate as above defined, and save the interest of a cultivating raiyat:

"Collector." "collector" includes any person vested with the powers of a Collector:

"District." "district" means the portion of territory throughout which any person vested with the powers of a Collector is authorized to exercise such powers:

"Immoveable property." "immoveable property" includes lands, houses and all benefits to arise out

[a] See *supra*, p. 393.

of land and things attached to the earth or permanently fastened to anything which is attached to the earth; but does not include crops of a kind:

"holder of an estate or tenure" means all or any of the holders thereof; and where two or more persons are jointly holders thereof, they shall be jointly and severally liable under this Act; "Holder of an estate or tenure."

"cultivating raiyat" means a person cultivating land and paying rent therefor not exceeding one hundred rupees per annum: "Cultivating raiyat."

"annual value of land" means the total rent which is paid, or if no rent is actually paid, would be reasonably expected to be payable, during the year by all the cultivating raiyats thereof, or by other persons in actual use and occupation thereof: "Annual value of land."

4. From and after the commencement of this Act in any district within the said territories subject to the Lieutenant-Governor of Bengal, all immoveable property situated therein shall be liable to the payment of a district road-cess, to be applied to the construction and maintenance of roads and other means of communication within the said district, and to be assessed thereto by the District Committee in manner as hereinafter is provided, and such road-cess shall be recoverable from the several owners and occupiers of such property in the proportions and in the manner as are hereinafter provided. All immoveable property liable to road-cess

PART II.—ROAD-CESS ON LAND.

Valuation.

5. Upon the commencement of this Act in any district, the Collector shall cause a proclamation to be issued, requiring every holder of any estate or tenure of which the annual Government revenue or rent shall exceed one hundred rupees severally to lodge at the Collector's office within one month a return of all lands comprised in his estate or tenure in the form in schedule (A) hereto annexed, and containing the particulars in such form set forth. Proclamation to make return of lands.

The Collector shall cause such proclamation to be published by affixing a copy thereof in some conspicuous place in the office of such Collector, in every civil Court, in every Police-station, and in the office of every sub-divisional officer within the district.

6. The Collector shall, so soon as may be after the publication of such proclamation, cause a notice to be served in the form in schedule (A) for every such estate, and also a notice for every such tenure which may have been named in any return lodged in pursuance of the provisions of this Act, or may have been entered in any register in the Collector's office; and all holders of such estates and of such tenures who shall, without sufficient cause being shewn to the satisfaction of the Collector, refuse or omit, for the space of three Notice to return lands. Penalty.

months after service of such notice, to lodge in the office of the Collector such return as hereinbefore mentioned, shall be severally liable to a fine which may extend to fifty rupees for every day after the expiration of such three months until such return shall be furnished, or until the value of the lands comprised in their respective estates and tenures shall have been ascertained and fixed by the Collector as hereinafter is provided.

It shall be lawful for the Collector, upon sufficient grounds for so doing being proved to his satisfaction, from time to time to extend the period for lodging any such return.

No rent to be recovered till return made.

7. From and after the expiry of three months from the service of any such notice, or any extension of such time under the provisions of the section next preceding, every holder of an estate or tenure in respect of which such notice shall have been served, shall be precluded from suing for or recovering any rent in respect of any land or tenure which shall be proved not to have been included in the return lodged by him, or in respect of which no return shall have been lodged as aforesaid or valuation made by the Collector, and from recovering rent for tenures subsequently created or in excess of the sum mentioned in such return without proof of the creation of such tenure or enhancement subsequent to such lodgment.

Valuation of small estates and tenures.

8. Whenever the revenue annually payable in respect of any estate, or the rent annually payable in respect of any tenure, shall not exceed the sum of one hundred rupees, the Collector may, without issuing any notice for such estate or tenure, determine the annual value of the land comprised therein to be, in a permanently-settled estate or tenure a sum not exceeding three times, and in a temporarily-settled estate or tenure a sum not exceeding twice, the amount of the annual revenue or rent payable therefor; and when the acreage thereof has been ascertained, to be at such rate per acre as to him may seem fit.

When the land comprised in any estate or tenure has been valued by the Collector under this section, the annual value of any portion of such land which is comprised within a subordinate tenure shall be taken to be a sum equal to the rent thereof increased by half the same multiple or fraction of such rent as that by which the annual value of the whole of such land determined as aforesaid exceeds the revenue or rent payable for the same; or shall be at the same rate per acre as the whole of such land:

Provided that the holder of any such estate or tenure may, within one month from the posting of the valuation-roll in respect thereof under section 17, and the holder of such subordinate tenure may, within one month from the date of the first demand made on him for payment of road-cess, lodge a return in the form in schedule (A) contained in regard to such estate or tenure or subordinate tenure, and thereupon the annual value of the land comprised

therein shall be fixed at the amount entered in such return, subject to the provisions of sections 12 and 14.

Or the Collector may, if he think fit, cause a notice to be served in respect of any such estate or tenure in form in schedule (A) contained, and thereupon all the provisions of this Part shall apply in the same way as they would have applied if the annual Government revenue or rent thereof had exceeded one hundred rupees.

Return of plantations, &c.

9. Whenever any lands have been acquired under any rules issued by or under the authority of the Government for the sale, grant or clearance of waste-lands, or are held directly from Government, and are used for the cultivation of tea, coffee or cinchona, the Collector shall, in lieu of the notice to be served under section 6, but at the time in the manner and under the penalties therein prescribed, cause a notice to be served calling on the holder of such lands to lodge a return in the form in schedule (B) hereto annexed, and containing the particulars in such form set forth, and the annual value of such lands shall be fixed at ten rupees in respect of every acre therein entered as cultivated.

Fines how levied.

10. Fines under section 6 of this Act, and all costs of recovery thereof, may be levied by an order in writing of the Collector, and such order shall have the force of a decree of a civil Court in a suit in which Government is the plaintiff and the person liable to pay is the defendant: and such order may be enforced by attachment and sale of moveable property in manner provided by Act VIII of 1859[a] for the enforcement of decrées for money; and the procedure under the said Act in respect of the following matters, that is to say, sales in execution of decrees, claims to attached property, and execution of decrees out of the jurisdiction of the Courts by which they were passed, shall apply to every execution issued for levying the moneys mentioned in such order, save that all the powers and duties conferred and imposed by the said Act upon the Court shall be executed by the Collector by whom such order has been made, or to whom a copy thereof has been transmitted for execution according to the provisions of the said Act, section 286.

Or the Collector may, if he see fit, after recording his opinion to that effect, cause a notice in form contained in schedule (C) to be served for the estate or tenure for which default has been made, and thereupon every payment of rent, save to the Collector or some person by him thereunto appointed, made after such service, until further order of the Collector, shall be null and void; and the Collector may recover by any process of law in that behalf for the time being in force the rent then or thereafter to become due from any

[a] Repealed by Act No. X of 1877.

occupier or tenure-holder on the said estate or tenure until the amount of such fine or fines with all costs shall be satisfied, whereupon the said notice shall be ordered to be revoked: and the receipt of the Collector in respect of all sums so recovered shall be, to the extent of such sums, a valid discharge in respect of rent due by such occupier or tenure-holder.

If returns not furnished, Collector to make valuation.

11. The Collector may, after the expiration of four months from the service of any notice mentioned in section 6 or section 9, ascertain and fix, by such ways and means as to him shall seem expedient, the annual value of the lands mentioned in such notice of which no return required by such notice shall theretofore have been lodged; and all expenses incurred in making such valuation shall be recovered with all costs of recovery thereof in manner as is provided by section 10 for the recovery of fines.

If return of certain lands is untrue, Collector to make valuation.

12. Whenever the Collector may deem that any return required by section 6 or section 9 of lands for which no rent is payable by cultivating raiyats to the person making such return is untrue or incorrect, he may by such ways and means as to him shall seem expedient ascertain and fix the annual value of such lands; and in case the annual value of such lands so determined by him shall exceed by one-fifth the value stated in such return, the expense of such valuation shall be paid by the person by whom such return shall have been lodged, and may be recovered in manner as is provided by section 10 for the recovery of fines, and in all other cases shall be defrayed from the district road-fund established under this Act.

Person returned as cultivating raiyat may be served with notice.

13. It shall be lawful for the Collector, whenever he may think fit, to cause a notice in the form in schedule (A) to be served on any person holding any lands or possessing any interest therein, although such person may have been mentioned in any return as a cultivating raiyat; and thereupon such person shall be bound to make a return in the form in schedule (A) contained, and the provisions contained in section 6 with regard to fines and extension of time for lodging a return shall be applicable to him.

If no return is made, the Collector may proceed to ascertain the annual value of the lands held by such person, and in case it appears that the annual value of the land is greater than the rent which he pays, the expense of such valuation shall be borne by such person and may be recovered with all costs of recovery thereof in manner as is provided by section 10 for recovery of fines, and in all other cases shall be defrayed from the said district road-fund.

False returns.

14. If the Collector shall see ground for believing that any return made under this Act other than a return mentioned in section 12 is untrue and incorrect, he may prosecute the maker of such return under section 177 of the Indian Penal Code.

And if the Magistrate convict the person so prosecuted under the said section, the Collector may proceed to make a valuation of the lands mentioned in such return by such ways and means as to him shall seem expedient.

Power of Collector in making valuation.

15. For the purpose of making any valuation of lands directed by this Part, the Collector shall exercise the powers vested in Collectors by section 19, clause 1, section 23, clause 1, and section 24, clause 1, of Regulation VII of 1822[a] of the Bengal Code, except so far as the said clauses authorize any inquiry into rights or interests attaching to such lands.

Valuation-rolls to be prepared.

16. The Collector shall cause to be prepared from the returns so furnished to him, and from the valuations made by him under this Part, a valuation-roll of each estate within his district, and of the tenures therein comprised, noting thereon the amount of revenue annually payable to Government on which the deduction specified in section 21, clause 1, of this Act is to be calculated, and shall, on the application of any holder of an estate or tenure or cultivating raiyat within his district, cause to be furnished to him a copy of so much of the said roll and of the returns as relate to the lands included within his estate or tenure or raiyati holding, on being paid for the same at such rate as the Lieutenant-Governor of Bengal shall from time to time determine.

Publication of such rolls.

17. On the completion of every roll prescribed under this Part, the Collector shall cause a copy thereof to be posted up at the mál-kachahrí of the estate and of every tenure to which such roll refers, and if no mál-kachahrí be found, then on some conspicuous place on the said estate and tenure.

Appeals against valuation.

18. Every person who shall deem himself to be aggrieved by any valuation to be made by any Collector under the provisions of section 12 may, within one month after the posting up of a copy of such roll as above mentioned, appeal to the Commissioner of the division against such valuation, and the decision of such Commissioner shall be final and conclusive.

Orders for levy of fine appealable.

19. Every order for the levy of a fine or of expenses passed by a Collector under this Act shall be appealable to the Commissioner of revenue within one month from the service of the first process for the levy of such fine or expenses.

Pending such appeal, and until the order of the Commissioner, which shall be final, all process for such levy shall be discontinued.

Assessment and Payment.

Maximum rate.

20. From and after the commencement of this Act in any district, all lands in such district shall be liable to the payment of district road-cess at such rate not exceeding one-half of an anna in the rupee of the annual value of such lands as the District Committee in manner hereinafter provided shall determine.

[a] See *supra*, p. 178.

Mode of payment of road-cess—by zamíndár:

21. (1)—Every holder of an estate shall yearly pay the entire amount of the road-cess calculated on the annual value of the lands comprised in such estate, at the rate at which the road-cess shall have been assessed as hereinafter provided, less a deduction to be calculated at one-half of the said rate for every rupee of the revenue entered in the valuation-roll of such estate as payable in respect thereof.

by holder of tenure.

(2)—Every holder of a tenure shall yearly pay to the holder of the estate or tenure within which the land held by him is included, the entire amount of the road-cess calculated on the annual value of the land comprised in his tenure at the rate at which the road-cess shall have been assessed as hereinafter provided, less a deduction to be calculated at one-half of the said rate for every rupee of the rent paid by him for such tenure.

by cultivating raiyat.

(3)—Every cultivating raiyat shall pay to the person to whom his rent is payable one-half of the said road-cess calculated upon the rent payable by him, or upon the annual value, ascertained under the provisions of section 13, of the land held by him.

Time of payment of road-cess by zamíndárs.

22. When the rate of road-cess to be levied in any district shall have been determined for any year by the District Committee in manner as hereinafter provided, the Collector shall cause to be served on the holder of every estate within the district a notice shewing the amount of road-cess payable by such holder, and specifying the date from which such road-cess shall take effect.[a]

And thereupon the said holder shall pay the amount of such road-cess to the said Collector, by equal instalments, on the several days fixed for the payment of the instalments of the Government revenue due in respect of his estate, if revenue be payable thereon; and if no revenue be payable thereon, then upon such days as shall be for that purpose appointed by any order of the Lieutenant-Governor made under the provisions hereinafter contained.

Road-cess how recoverable.

23. If any instalment of such road-cess or part thereof payable to the Collector shall not be paid, the person making default shall at any time within three years next after the same has become payable, be liable to pay the amount of the arrear, and such amount may be levied by an order in writing of the Collector, and the provisions contained in section 10 shall apply to such order; or the Collector may, if he see fit, after recording his opinion to that effect, cause a notice in form in schedule (C) contained to be served for the estate or tenure for which default has been made, and thereupon every payment of rent, save to the Collector or to some person by him thereunto appointed, made after such service shall be null and void; and the Collector may recover

[a] See Bengal Act No. II of 1877, section 6.

by any process of law in that behalf for the time being in force the rent then or thereafter to become due from any occupier or tenure-holder on the said estate until the said amount with all costs shall be realized; whereupon the said notice shall be ordered to be revoked; and the receipt of the Collector in respect of all sums so recovered shall be, to the extent of such sums, a valid discharge in respect of rent due by such occupier or tenure-holder.

The claim of the Collector for arrears of road-cess due from any estate or tenure for which a notice has been served under this section shall have priority over any other demand or claim or lien subsisting thereupon.

Times of payment for subordinate tenures.

24. The payment for road-cess by the holder of a tenure, or by a cultivating raiyat, shall be made in the proportion of the instalments of rent payable in respect of such tenure or raiyati holding; and if there be no rent payable in respect thereof, then by two equal half-yearly instalments, upon such days as shall be for that purpose appointed by any order of the Lieutenant-Governor made under the provisions hereinafter contained.

Recovery by holders of estates or tenures.

25. Every holder of an estate or tenure to whom any sums may be payable under the provisions of this Act, may recover the same in the same manner and under the same penalties as if the same were arrears of rent due in respect of the land in respect of which such sums may be payable.

And any shareholder in an estate or tenure who may have paid the road-cess payable in respect of such estate or tenure, may recover from his co-sharers such sums as may be payable in respect of their shares as arrears of rent; or may take credit for such sums in any adjustment of accounts between himself and his co-sharers.

Payment for lands held free of rent.

26. All lands held without payment of rent other than lands mentioned in section 9, and not being estates entered on the register of revenue-free tenures of the district shall, for the purposes of this Act, be deemed to form a part of the tenure within the local boundaries of which they may be included, and if they be not included within the local boundary of any tenure, then to be a part of the estate within the local boundaries of which they are included and if they be not included within the local boundaries of any estate, then to be a part of such conterminous estate as the Collector, in whose district such conterminous estate is situated shall, by an order under his seal, appoint.

And road-cess in respect of such lands shall be payable by the holder of the estate or tenure of which they are deemed to form a part, and shall be recoverable under the provisions of section 23 or section 25 as the case may be.

Or such lands may, if the Collector shall see fit, be entered on a separate register to be kept for the purposes of this Act by the Collector, and thereupon road-cess shall be payable thereon and shall be recoverable in respect thereof as if the same were an estate.

Remuneration for collecting road-cess for lands for which no rent is paid.

27. It shall be lawful for the person to whom any sum shall, under the provisions of the section next preceding, have been directly paid by the holder of any tenure or tenures for which no rent is paid, to retain one-fourth thereof as and for his remuneration for costs and risk of collecting the same.

PART III.—ROAD-CESS ON MINES, RAILWAYS, &c.

Maximum rates on railways, &c.

28. From and after the commencement of this Act, in any district, every mine, quarry, tramway or railway, or other immoveable property not included within the provisions of Part II and Part IV of this Act, situated therein, shall be liable to the payment of road-cess at such rate not exceeding one-half anna on every rupee of the annual nett profits of such mine, quarry, tramway or railway, or other property as aforesaid as the District Committee may as hereinafter provided determine to be the rate in the rupee leviable in respect of the annual value of land under Part II.

Provided that no railway or tramway, the property of the Government of India, nor any railway nor tramway of which the dividend is guaranteed by Her Majesty's Secretary of State for India in Council, or by the Governor General of India in Council, shall be liable to road-cess under the provisions of this Act without the consent of the said Governor General of India in Council first had and obtained.

Notice to return profits.

29. At the time, in the manner, and under the penalties provided by section 6 of this Act, the Collector shall cause a notice to be served upon the owner, chief agent, manager or occupier of any property assessable under this Part; such notice shall be in the form provided by schedule (D) of this Act, and shall require such owner, chief agent, manager or occupier to send in to the office of the Collector a return of the annual nett profits of such property calculated on the average of the annual nett profits thereof for the last three years for which accounts were made up.

It shall be lawful for the Collector, upon sufficient grounds for so doing being proved to his satisfaction, from time to time to extend the period for lodging any such return.

When property lies in different districts.

30. Whenever any property assessable under this Part lies in two or more districts under the Lieutenant-Governor of Bengal, the notice to furnish a return under section 29 of this Act shall be served on the owner, chief agent, manager or occupier of such property by or through the Collector of the district where such owner, chief agent, manager or occupier may reside or have his chief place of business, and one return for the whole of such property shall suffice.

31. Whenever any property assessable under this Part lies partly within and partly outside the territories subject to the Lieutenant-Governor of Bengal, the return sent in under section 29 of this Act shall state the total annual nett profits calculated as aforesaid accruing from such property, and also the proportion of such profits which may reasonably be calculated to accrue in the territories subject to the Lieutenant-Governor of Bengal. When property is partly in, and partly beyond, limits of Bengal territories.

32. If such return be not furnished within the period of three months or any extension thereof from the date on which such notice was served, or if the Collector shall deem that any return made in pursuance of such notice is untrue or incorrect, the Collector shall proceed to ascertain and determine, by such ways or means as to him shall seem expedient, the annual nett profits of such property calculated as aforesaid, and all expenses incurred in making such valuation shall be borne by the person by whom, or the property in respect of which, the default occurred, and shall be recoverable, with all costs of recovery thereof, in manner as is provided by section 10 for recovery of fines. If return not furnished or incorrect, Collector to make valuation.

33. So soon as the Collector shall have ascertained and determined the annual nett profits as aforesaid of any such property, he shall cause to be served upon the owner, chief agent, manager or occupier of such property, a notice informing him of the amount of the annual nett profits so ascertained and determined by him. Notice of valuation.

Any person who, having made a return under section 29, may deem himself aggrieved by any valuation made by the Collector under the next preceding section may, within one month from the service of such notice, appeal to the Commissioner of the Division, and the decision of the Commissioner on such appeal shall be final. Appeal.

34. If the Collector be unable to ascertain the annual nett profits as aforesaid of any property assessable under this Part, he may, by such ways or means as to him shall seem expedient, ascertain and determine the value of such property, and shall thereupon determine six per centum on such value to be the annual nett profits thereon. Annual nett profits.

The expenses incurred under this section shall be borne by the person by whom, or the property in respect of which, the default occurred, and shall be recoverable with all costs of recovery thereof in manner provided by section 32.

35. Whenever any property assessable under this Part lies in two or more districts, the Lieutenant-Governor of Bengal shall from time to time determine out of the total annual nett profits stated in the return, or in the valuation, of such profits accruing in the territories subject to him, and ascertained in any manner as aforesaid, the proportions in which such property shall be assessed in each of the said districts respectively. Determination of proportion of profits when property in different districts.

Notice of road-cess and recovery thereof.

36. When the rate of road-cess to be levied in the district upon property assessable under this Part shall have been determined for any year by the District Committee in manner as hereinafter provided, the Collector shall cause to be served on the owner, chief agent, manager or occupier of every such property a notice shewing the amount of road-cess payable in respect of such property and specifying the date from which such cess shall take effect.[a]

And such amount shall be payable by such owner, chief agent, manager or occupier, to the Collector in two equal instalments, the first on the expiry of six months, the second on the expiry of nine months, after the date fixed as hereinbefore provided for the commencement of the cess year.

Every occupier of such property, who shall have paid in excess of half of such amount, shall be entitled to deduct such excess from the next instalment of rent payable in respect of such property; and every owner who has paid in excess of half of such amount shall be entitled to recover such excess from the occupier thereof; provided that in no case shall an occupier deduct from his annual rent more than half of the rate of the road-cess on every rupee thereof.

If any instalment of cess which has become payable under this section shall not be paid to the Collector, the amount thereof may thereupon, at any time within three years next after the same has become payable, be recovered with all costs under the provisions contained in section 10 for the recovery of fines, so far as the same are applicable.

How distributed when property in different districts.

37. The total road-cess payable in respect of property assessable under this Part, owned by the same person in two or more districts, shall be payable to the Collector of the district where the owner, chief agent, manager or occupier may reside or have his chief place of business, and shall be by him transmitted to the Collectors of the districts in respect of which such cess shall be payable, in the proportion in which such Collectors shall be severally entitled thereto.

PART IV.—ROAD-CESS ON HOUSES.

Mode of Assessment and Levy thereof.

Maximum rate.

38. From and after the commencement of this Act in any district, all houses within such district, of any of the classes mentioned in schedule (E) save as hereinafter is provided, shall be liable to the payment of road-cess from such date.

Rate thereof.

39. The said cess shall be payable by the occupiers of the houses respectively, liable thereto, according to the rates to be determined by the District Committee in manner as hereinafter provided, not exceeding the rates se

[a] See Bengal Act No. II of 1877, section 6.

forth in schedule (E) annexed to this Act; provided that every occupier who shall have paid the cess due in respect of the house which he occupies, may deduct one-half of the sum so paid from the next instalment of rent which may become payable by him in respect of the said house.

Certain houses exempt.

40. No person by whom any road-cess is payable under the provisions of Part II or Part III of this Act, shall be liable to pay road-cess in respect of any house occupied by him unless such person shall carry on some trade or profession therein, the profits of which are not derived from the property in respect of which he pays cess under the provisions of either of the said Parts.

And no house occupied exclusively as a place of worship shall be liable to road-cess under this Act.

Valuation.

41. The value of the houses liable to such cess shall be determined, in places and villages to which the provisions of Act XX of 1856,[a] or of "the Village Chaukídárí Act, 1870,[b]" passed by the Lieutenant-Governor of Bengal in Council, shall have been extended, by the panchayats of such places and villages respectively; and in all other places and villages by assessors to be respectively appointed thereto by the Collector.

The Collector shall, as soon as conveniently may be after this Act has come into force in his district, send written notices to such assessors and panchayats, respectively, requiring them forthwith to determine the value of the said houses.

Every panchayat and assessor shall severally prepare and deliver to the Collector within two months of the receipt of such notice a valuation-roll, which roll shall be in such form as the Lieutenant-Governor shall prescribe under the provisions of section 97 of this Act.

Collector may value in certain cases.

42. In case any panchayat or assessor who, by the provisions hereinbefore contained, is charged with the duty of making any valuation under this Part, shall fail to prepare and deliver to the Collector such valuation-roll within the time aforesaid, the Collector shall appoint some person to make such valuation, and to prepare and deliver to him such roll; and the valuation made by such person shall have the like force and effect as if the same had been made by the panchayat or assessor aforesaid.

Publication of valuation.

43. Every panchayat or assessor, or other person appointed under the provisions of the next preceding section, shall cause the said valuation-roll to be published by posting copies thereof, in the language of the district, in some conspicuous position in the place or village to which it relates; and, in the case of any union, in some conspicuous position in each village comprised

[a] See *supra*, p. 305.

[b] See *supra*, p. 678.

within such union; and shall thereupon forward a copy of such roll to the Collector.

Revision of valuation.

44. The Collector may, within two months of the receipt of the said copy, cause the said valuation to be tested by a superintendent.

The valuation fixed by the panchâyat or assessor or other person as aforesaid thereto appointed by the Collector shall be final, except in cases where the said superintendent shall alter the same, and such altered valuation shall be published as in the next preceding section is provided.

Any person who may deem himself aggrieved by such altered valuation may appeal within one month of the publication thereof to the Collector, and the order of the Collector thereon shall be final.

Levy of road-cess where panchâyats exist.

45. The road-cess payable in respect of any house situate in any place or village to which the provisions of either of the Acts mentioned in section 41 shall have been extended, shall be levied from the occupiers thereof half-yearly in two equal instalments, the first becoming due on the expiry of six, and the second on the expiry of nine, months after the date fixed as hereinbefore provided for the commencement of the cess year in the district in which such place or village is situated, by such person and by such ways and means as if the same were a rate or tax payable under the provisions of the Act extended to such place or village; provided that the limitation of six months prescribed in section 47 of Act XX of 1856[a] shall, in respect to the said road-cess on houses, be extended to one year.

Road-cess on houses in other places, how paid.

46. In every place other than those to which the provisions of Act XX of 1856, or of "the Village Chaukídárí Act, 1870,[b]" shall have been extended, the road-cess which may be payable in respect of any house therein shall be payable to the assessor of such place by the occupier thereof by two equal instalments.

The provisions of section 45 with regard to time of payment and limitation shall apply to instalments payable under this section.[c]

How to be levied.

47. Any instalment of road-cess due under this Part, if not paid on or before the tenth day after it has become due and payable, may be levied in the manner prescribed for the levy of an arrear of village chaukídárí tax in sections 25 to 33, inclusive, of the Village Chaukídárí Act, 1870, and for the purposes of such levy the said assessor shall exercise the powers of a panchâyat under section 25 and of the collecting member of such panchâyat under section 26 of the said Act.[d]

Sums to be transmitted when recovered.

48. Every sum in respect of road-cess on houses which shall by any person be recovered under any of the provisions aforesaid, shall be with all convenient

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[a] See *supra*, p. 305. [b] See *supra*, p. 678. [c, d] See Bengal Act No. II of 1877, section 7.

speed transmitted by him to the Collector, or to such person as the Collector may appoint to receive the same.

Part V.—Local Committees.

Constitution of District Committees.

Constitution of district committee.

49. In and for any district to which this Act shall have been extended, the Lieutenant-Governor shall from time to time appoint, or cause to be elected, under such rules in regard to qualification, election and discharge as may by him be prescribed, for such period not exceeding two years as to him may seem fit, any number of the road-cess payers of such district, their managers or agents, to be members of a district-committee for carrying out the purposes of the Act.

Removal of members.

50. The Lieutenant-Governor may, from time to time, discharge any one or more of the members of the committee so appointed who shall desire to be discharged, or refuse or become incapable to act, or whom, for any cause which he may deem sufficient, he may think it expedient to remove.

Appointment of *ex officio* members.

51. In addition to the members appointed or elected as aforesaid, the Lieutenant-Governor shall have power to direct, by any writing signed by him, that all persons holding the offices in such writing specified shall be *ex officio* members of the committee for any district in which they exercise the said offices, and in which this Act shall have come into force.

Number of *ex officio* members.

52. The number of members of a district-committee holding salaried offices under the Government shall not be more than one-third of the total number of the said committee.

Their Mode of Transacting Business.

Chairman and vice-chairman of committee.

53. The Collector of the district shall be the chairman of the district-committee, and the vice-chairman shall be elected by the said committee.

Committee to have an office.

54. The committee shall have an office within the district in and for which they shall have been appointed; where they shall meet for the transaction of business at least once in every quarter of a year.

Chairman at meetings.

55. The chairman, or, in his absence, the vice-chairman, shall preside at every meeting of the committee.

In the absence of both the chairman or vice-chairman the members present shall elect a president for the occasion.

Special meeting.

56. The chairman, or, in his absence, the vice-chairman, may, whenever he thinks fit, and shall, upon a requisition made in writing and signed by not less than one-third of the members, convene a meeting.

Notice of meeting.

57. At least ten days' notice shall be given of every meeting.

Every notice shall state the business to be transacted at the meeting pro-

posed to be called; and no business other than that so stated shall be transacted at such meeting.

Quorum.

58. The quorum necessary for the transaction of business at a meeting shall be one-third of the total number of members forming the committee at the time of the meeting.

Adjourned meeting.

59. If at the time appointed for the meeting, or such time not exceeding one hour thereafter as the majority of the members present shall think fit, a quorum is not present, the meeting shall stand adjourned till some future day, to be appointed by the chairman or vice-chairman of the committee, and ten days' notice of such adjourned meeting shall be given.

The members present at such adjourned meeting shall form a quorum, whatever their number may be.

Voting.

60. All questions which may come before the committee at any meeting shall be decided by a majority of votes of the members present.

Every member shall have one vote.

Casting vote.

In case of equality of votes, the president shall have a casting vote.

Minute book to be kept.

61. The minutes of the proceedings of every meeting shall be recorded in a book to be kept for that purpose in the office of the committee, and any person resident in, or owning land in, the district, may at all reasonable times inspect and examine such book without payment of any fee, and may obtain a certified copy of any extract therefrom on payment of such fees as the Lieutenant-Governor may direct.

Correspondence between committee and Local Government.

62. All correspondence between the committee and the Local Government shall pass through the Commissioner of the division, who in all things under this Act shall be subject to the control and supervision of the Lieutenant-Governor.

The committee shall furnish him with any information he may call for connected with the duties imposed upon them by this Act.

Their Functions.

Election of vice-chairman.

63. The first meeting of a district-committee shall be convened by the chairman at such time as he shall think fit, and shall proceed to the election of a vice-chairman.

Appointment of officers by committee.

64. The committee at a subsequent meeting, to be convened by the chairman at such time as he shall think fit, may appoint, on the nomination of the chairman, and may suspend or dismiss as they may think fit, such officers, engineers, clerks and servants as may seem to them to be necessary for carrying out the purposes of this Act, and may pay to such officers, engineers, clerks and servants such salaries and allowances as they may from time to time determine.

Provided that the aggregate salaries and allowances of such officers, engineers, clerks and servants for any one year shall not, except with the sanction of the Commissioner of the division, exceed one-fourth of the entire income of the committee for the said year.

Penalty on members and officers being concerned in contracts.

65. No member, officer or servant of any committee shall be in any wise concerned or interested in any contract or work made with or executed for such committee; and if any such member, officer or servant be so concerned or interested, he shall be incapable of afterwards continuing to be a member of such committee or holding or continuing in any office or employment under such committee, and shall be liable on conviction thereof to a fine of rupees five-hundred.

Provided that nothing in this section shall apply to any person by reason only of his being a shareholder in any company incorporated by Act of Parliament or by Royal Charter or otherwise, or registered under any Act for the registration of Joint-Stock Companies, passed by the Parliament of the United Kingdom, or by any Indian legislature, which may enter into any contract with such committee, or execute any work for such committee, if such person shall, at or before the time of any such contract being made or tendered for, declare to such committee the extent of his interest in such company, and if an officer or servant of the committee obtain the sanction of such committee to his continuing to be an officer or servant.

Statement of roads to be prepared;

66. The vice-chairman, within three months after his election, shall cause to be prepared a general statement of the roads, bridges, rivers, khâls and canals other than those on which tolls of any kind are collected the proceeds of which are not paid to the district road-fund, and other than canals constructed for purposes of irrigation, to be brought within the operation of this Act within the three years then next ensuing, and the committee shall, at some meeting to be held within one month after the submission of such statement, or at any adjourned meeting, take such statement into consideration, and may pass any statement relating thereto which they may think fit.

and forwarded to Commissioner.

67. The committee shall thereupon forward the statement which shall be so passed to the Commissioner of Revenue of the division.

Supplemental statement.

68. The vice-chairman may in any subsequent year cause to be prepared a supplemental statement of the kind mentioned in section 66, and every such supplemental statement shall be subject to the provisions of the two sections next preceding with respect to the statement therein mentioned.

Collector to submit annual statement to committee.

69. The Collector shall, at such date as the district-committee shall fix, prepare and deliver to the district-committee a statement shewing under separate heads the estimated proceeds, for the cess year then next ensuing, of the several road-cesses at the maximum rates hereinbefore provided, and

also of any sum and of any sources of revenue for the said period which the Lieutenant-Governor shall have assigned to the said district.

Annual estimate to be prepared.

70. The committee shall at some meeting to be held in such month as the Lieutenant-Governor shall determine, prepare an estimate of the income and expenditure of the committee for the cess year then next ensuing, together with specifications and estimates of the works to be performed during such year, such works being a portion of, or included in, the works mentioned in the statement for the time being in force.

In making such estimate the committee shall first determine the amount to be appropriated to office-establishment and charges, next the amount to be appropriated to the repair of roads, bridges, rivers, khâls and canals then existing, and afterwards the amount to be appropriated to the construction of new roads or canals; provided that no portion of the district-road-fund of any one district shall, save with the previous sanction of the Lieutenant-Governor, be appropriated for the construction, repairs, maintenance or improvement of roads, bridges, rivers, khâls or canals within any other district.

Commissioner may revise estimate.

71. Every such estimate shall be forwarded by the vice-chairman to the Commissioner, and the Commissioner may approve such estimate, or may return such estimate for revision in such respects as he may point out, or may alter or vary the total amount thereby proposed to be expended,

Provided always, that it shall not be lawful for the Commissioner to alter or vary any estimate which shall have been approved by not less than two-thirds of the members of the committee present at the meeting at which such estimate shall have been adopted.

Limit of estimate.

72. The total amount in and by any estimate proposed to be expended in any one cess year shall not exceed the proceeds estimated to be at the disposal of the committee for that year of the several road-cesses hereinbefore directed to be imposed within the district at the maximum rates at which they are respectively leviable, together with any sum and the annual proceeds of any source of revenue which shall have been placed by the Lieutenant-Governor at the disposal of the committee.

Supplemental estimate.

73. Whenever any estimate shall have been altered or revised by the Commissioner as hereinbefore is provided, the committee shall cause a supplemental estimate to be prepared, and in case the amount proposed to be expended shall have been increased by such alteration or revision, shall at a meeting provide for the expenditure of such increased sum, within the limits in the next preceding section specified; and in case such sum shall have been similarly diminished, shall therein determine the works proposed in the original estimate which are to be altered or abandoned.

Calculation of annual road-cess.

74. When and so soon as the amount for any one cess year proposed to be extended shall have been determined as hereinbefore is provided, the committee shall at a meeting, after deducting therefrom the amount which may be placed at their disposal as aforesaid, together with the estimated proceeds of any sources of revenue assigned to them, determine the several rates of cess under this Act required to produce the residue, and such rates shall be the rates at which the several cesses shall be respectively leviable for the ensuing year.

Proclamation and publication of cesses.

75. So soon as the said rates shall have been determined as aforesaid, the committee shall inform the Collector thereof, and the Collector shall cause a proclamation to be issued in his district declaring the same.

Such proclamation shall be published in manner as in section 5 is directed.

And the said rates shall be reported by every Collector to the Lieutenant-Governor, who shall forthwith cause the same to be published in the *Calcutta Gazette*.

Branch-committees.

Branch-committees

76. In any district to which this Act shall have been extended, the Lieutenant-Governor of Bengal shall, in addition to a district-committee, form as many branch-committees as he shall think fit, for carrying out the purposes of this Act, and shall appoint a chairman and vice-chairman thereof respectively, and shall define the portion of such district within which any branch-committee shall exercise the powers conferred and discharge the duties imposed upon them by this Act.

The said Lieutenant-Governor shall from time to time appoint, or cause to be elected, under such rules in regard to qualification, election and discharge as may by him be prescribed, for such period not exceeding two years as to him may seem fit, to be members of a branch-committee any number of the road-cess payers of the portion of the district for which such branch-committee shall be formed.

Sections which apply to them.

The provisions in sections 50 to 52 and 54 to 61 respecting district-committees shall apply, so far as the same are suitable, to such branch-committees.

Branch-committees' statements.

77. Every such branch-committee shall be, except as hereinafter provided, subordinate to the district-committee, and shall forward to the district-committee such statements, suggestions and estimates as it may think fit, and the district-committee shall consider and have regard to such statements, suggestions and estimates in framing the statements and estimates hereinbefore directed.

And such branch-committee may from time to time select any member

thereof to be an additional member of the said district-committee who shall thereupon, for the space of one year, become a member thereof.

Funds of branch-committee.

78. It shall be competent to the Lieutenant-Governor in each year to assign to any branch-committee so much of the road-fund levied for that year in the district for portion of which such branch-committee is appointed as he may think fit, not exceeding the total estimated proceeds of all cesses leviable within the said portion of the district; and further, to allot to the said branch-committee so much of the income of the fund from other sources as he shall think fit.

Powers of branch-committee.

79. In any case where the Lieutenant-Governor of Bengal may declare that a branch-committee shall have the full powers of a district-committee within the said portion of the district, the district-committee shall cease to exercise powers under sections 64, 65, 66, 70 and 73, within such portion of the district; and such powers, together with the powers specified in sections 67 and 68, shall then vest in the branch-committee; and in any case where the Lieutenant-Governor of Bengal may declare that a branch-committee shall have the powers of a district-committee for specified works or specified purposes only, the powers of the district-committee in respect of such works and such purposes only shall cease within the said portion of the district; and such powers shall then vest in the branch-committee.

Estimate.

80. Every branch-committee so vested with powers as in the next preceding section provided shall prepare an estimate in regard to their annual income and expenditure similar to that required by section 70 to be prepared by the district-road-committee.

Limit of estimate.

81. The provisions of sections 71, 72 and 75, shall apply to such estimate; provided that the aggregate amount to be expended by the branch-committee in any year shall not exceed the aggregate of the fund placed at their disposal for that year.

Part VI.—District-road-fund.

Constitution of district-road-fund.

82. The district-road-fund under this Act shall consist of the amount produced by the several road-cesses, and of all sums levied or recovered as fines or penalties or otherwise under this Act, and of all sums and the proceeds of all sources of revenue assigned by Government thereto.

Road-cess not under Act.

83. The Lieutenant-Governor shall, on or before the date fixed as that from which the several road-cesses under this Act shall take effect in any district, assign to the district-committee appointed therein all such sums as may have been collected within the said district during the financial year then last com-

pleted, on account of any road-cess payable otherwise than under the provisions of this Act, and such sums shall by the said committee be added to the district-road-fund.

Collector to prepare annual statement of district-road-fund.

84. The district-road-fund shall be lodged with the Collector, and the Collector shall keep a separate account thereof, and shall cause to be prepared an annual statement of such account, shewing in detail therein all receipts and disbursements during the cess-year.

After the appointment of any branch-committee in a district the Collector shall in like manner keep a separate account of the fund placed at its disposal.

Payments on account of district-road-fund.

85. All payments on account of the district-road-fund shall be made by the Collector out of the said fund upon cheques signed by the vice-chairman for sums under one hundred rupees, or by the chairman and vice-chairman for sums above that amount.

When the vice-chairman is absent, or from any cause incapacitated to sign cheques, the chairman may sign cheques on behalf of the vice-chairman.

Collector's monthly account.

86. The Collector shall forward to the vice-chairman of every committee in every month an account of his receipts and disbursements on account of the district-road-fund for the previous month.

Accounts of committee.

87. Every committee shall keep regular and detailed accounts of the moneys received or applied by them under the provisions of this Act and of their application, and such accounts shall be, at all convenient seasons, open to the inspection of all members of the committee.

Annual account current and examination thereof.

88. The vice-chairman of every committee shall, in every year, prepare a detailed account current of the receipts and expenditure of the district-road-fund during the previous cess-year, and such account shall within one month of the submission thereof be examined by the said vice-chairman together with three members of the committee appointed in its behalf by the committee.

Such members shall have power to call for all vouchers and papers they may require, and may amend, correct and pass the said account.

The account so passed shall be submitted to a meeting of the said committee to be convened to consider the same within one month from the receipt thereof.

Annual report to be submitted to Commissioner.

89. Within one month after the account of the next preceding cess-year shall have been examined as aforesaid, the committee shall submit to the Commissioner a copy of such account and a report of the work done and in progress in such year, and such account and report shall be published at the expense of the district-road-fund in the *Calcutta Gazette*, together with such remarks thereon as may have been received from the Commissioner.

Application of district-road-fund.

90. The district-road-fund shall be applied—

in paying the necessary expenses for carrying out the provisions of this Act, including establishment and charges incurred by the Collector;

in the payment of the staff and establishment appointed under the provisions hereinbefore contained;

in the construction, repair, improvement and maintenance of roads, bridges, rivers, kháls and canals other than those on which tolls are collected, the proceeds of which are not paid to the district-road-fund and other than canals constructed for purposes of irrigation.

PART VII.—General Provisions.

General valuation to be in force for five years.

91. Every valuation under Part II and Part IV shall remain in force and effect for the term of five years from the date fixed as hereinbefore provided for the several cesses leviable in pursuance thereof to take effect, and until a new valuation and assessment shall have been completed.

Power after five years to make new valuation.

92. After the expiration of the said five years the Collector may cause a new valuation-roll under Part II or under Part IV, or under both, to be prepared, and for that purpose may cause such proclamations and notices to be issued and served, and such returns to be made, as are hereinbefore directed, and shall have such powers and authorities as are in the said Parts respectively conferred.

New valuation under Part III.

93. New valuations under Part III shall be made by the Collector every year, and the Collector may for that purpose cause such notices to be issued and served, and such returns to be made, and shall have such powers and authorities, as are in the said Part mentioned and conferred.

Provided that whenever any return made under section 29 of this Act shall be accepted by the Collector for any year, the owner, chief agent, manager or occupier of such property may, if he see fit, declare in writing at the time of such acceptance that the annual nett profits set forth in such return shall, for the purposes of this Act, be the annual nett profits for the five years then next ensuing.

And if the Collector shall agree to accept such declaration, no new valuation shall be made for such property until the said five years shall have expired or until a general re-valuation be made under the next preceding section.

Evidence.

94. Every return filed by or on behalf of any person in pursuance of the provisions of this Act shall be signed by him or his authorized agent, and shall be admissible in evidence against him, but shall not be admissible in his favour.

Service of notice.

95. Every notice in and by this Act required to be served may be served—

1—by delivering the same to the person to whom it is directed, or on failure of such service, by posting the same on some conspicuous part of the house in which the said person resides, or by delivering the said notice to any agent

authorized to appear generally for the person to whom such notice is directed; or

2—by sending a registered letter, containing such notice directed to the said person at his usual place of abode, or to the place where he may be known to reside; or

3—by posting a copy of the notice at the mál-kachahrí of the estate or tenure; or if no such mál-kachahrí be found, on some conspicuous place on the said estate or tenure to which such notice relates, and by delivering, in the case of estates paying their annual revenue by four instalments, another copy thereof to the agent who shall have paid an instalment of revenue next after the preparation of such notice.

In all cases where two or more persons are holders of an estate or tenure, service of notice under this clause shall be deemed to be good and sufficient service on each and all of such persons.

Costs of service.

96. The costs of service of all notices by this Act required to be served shall be defrayed from the district-road-fund.

Power to prescribe forms and rules.

97. It shall be lawful for the Lieutenant-Governor of Bengal, by an order published in the *Calcutta Gazette*, to make such rules for the performance of the duties of the district and branch-committees, and of all persons employed under this Act, and in regard to the appointment, election, qualification and discharge of such persons, and otherwise for carrying out the purposes of this Act, and to prescribe such forms for the notices, returns, valuation-rolls, estimates, account-books, reports and statements required by the provisions hereinbefore contained, and for which forms are not hereby given, as to him shall seem meet; and to fix the dates for payment of instalments under sections 22 and 24, and by any other order, to be in like manner published, to alter, vary or revoke any such rules or forms, or to substitute others in lieu thereof; and all such rules and forms shall, so far as they are not inconsistent with the provisions of this Act, have the same force and effect as if they had been inserted herein.[a]

SCHEDULE A.

No. 1.—Form of Return prescribed by section 5.

Amount of Government revenue in case of an estate: or of rent in case of a tenure: Rs. As. P.

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[a] See, as to collection of cesses, *Calcutta Gazette*, 10th December, 1873, Part I, pp. 1344—1346; as to appointment, qualification and discharge of employés, *ibid.*, 17th July, 1875, Part I, p. 831 and 6th June, 1877, Part I, p. 689: as to valuation and levy of house-cess under Part IV of the Act, *ibid.*, 1st January, 1873, Part I, pp. 6—10: as to forms of annual estimate and accounts required from the District Road Cess Committees, *ibid.*, 26th April, 1876, Part I, pp. 435—441.

PART I.

District Mahál No.

Details of lands in the actual occupation and cultivation of the person submitting the return :—

1	2	3	4	5
Pargana in which land is situated.	Name of village in which land is situated.	Area of land.	Deduct area of land situate within any municipal boundary.	Annual value of remaining land.

PART II.

District Mahál No.

Details of lands held by cultivating raiyats paying direct to the person submitting the return :—

1	2	3	4	5	6
Pargana in which situated.	Name of village in which situated.	Name of raiyat.	Annual rent.	Deduct rent of land included in any municipality.	Balance of nett rent assessable to road-cess.

PART III.

District , Mahál No.

Details of the tenure-holders paying to the person submitting the return :—

1	2	3	4
Name of tenure-holder and person paying rent for him borne on the books of holder of estate or tenure.	Name of village, pargana and district in which such persons reside.	Name of village in which tenure is situated.	Annual rent paid by tenure-holder.

PART IV.

District ; Mahál No.

Details of lands for which no rent is paid, included in the estate or tenure of the person submitting the return so far as may be known to him :—

1	2	3	4	5
Pargana in which situated.	Name of village in which situated.	Name of holder.	Name of village in which lands are situated.	Estimated annual value.

I, *X. Y. Z.*, do declare that the statements contained in the above return are true to the best of my knowledge, information and belief.

(*Signed*)

N. B.—This return must be signed by the holder or his authorized agent.

No. 2.—Form of Notice upon an Estate or Tenure under section 6.

District of

NOTICE UNDER DISTRICT ROAD CESS ACT, 1871.

The holders of estate or tenure (*description of the land to be filled in*) in the district of ; and all others interested therein, are hereby required to lodge in the office of the Collector of the said district a return, in the form hereunto annexed, of all lands comprised in such estate or tenure and the rents paid therefor. Such return must be signed by such holder or his authorized agent and be so lodged within the space of three months from the service of this notice (unless within the said three months you obtain from the Collector an extension of the said space of three months) under a penalty of a daily fine of fifty rupees for every day after the expiry of such period or extension thereof until such return shall be presented. Take notice, further, that no rents due in respect of the said estate can be recovered by suit after such period until such returns be so lodged.

(*Sd.*) *A. B.*,
Collector.

COLLECTOR'S OFFICE,
Dated

SCHEDULE B.

Form of Notice under section 9.

District of

NOTICE UNDER DISTRICT ROAD CESS ACT, 1871.

The owner, chief agent, manager or occupier of situated in the district of is hereby required to lodge in the office of the Collector of the district of , a return in the form hereunto annexed, showing the amount of land under cultivation at the date of this return in the said

Such return must be signed by him and be lodged within the space of three months from the service of this notice (unless within the said three months you obtain from the Collector an extension of the said space of three months), under penalty of a daily fine of fifty rupees for every day after the expiry of such period or extension thereof until such return shall be presented.

Annexed Form of Return.

District

Details of lands acquired under any rules for the sale, grant or clearance of waste-lands, or held direct from Government and used for the cultivation of tea, coffee or cinchona under the control of the persons submitting the return :—

1	2	3	4	5	6
Districts In which the lands lie.	Parganas	Name of owner, agent, manager or occupier.	Entire area of land.	Area of lands under cultivation in acres.	Aggregate value at Rs. 10 per acre of land in column 5.

I, *X. Y. Z.*, do declare that the statements contained in the above return are true to the best of my knowledge, information and belief.

(*Signed*)

N. B.—This return must be signed by the owner, chief agent, manager or occupier.

SCHEDULE C.

Form of Notice under sections 10 and 23.

District of

NOTICE UNDER DISTRICT ROAD CESS ACT, 1871.

The occupiers and tenure-holders on estate or tenure *(description of the land to be filled in)* are hereby prohibited, until further order of the Collector, from making any payment of rent now or hereafter to become due from them in respect of any land comprised within such estate or tenure except to the Collector of the said district or to (*name of person*) hereby appointed to receive the same. The Collector will grant receipts for all sums paid, and such receipts will, under the provisions of the above Act, be a valid discharge to the extent of such sums in respect of rent due or hereafter to become due as above stated by the holder of such receipt. All payments, except to the Collector, until further order, will be null and void.

(*Sd.*) *A. B.*,
Collector.

SCHEDULE D.

Form of Notice to be served under section 29.

District of

NOTICE UNDER THE DISTRICT ROAD CESS ACT, 1871.

The owner, chief agent, manager or occupier of the
situated in the district of . is required to lodge in the office of the Collector of the district of
a return in the form hereunto annexed, shewing the nett profits of the
calculated on the average of the profits of the last three years for which accounts have been made up. Such return must be signed by him or his authorized agent and be lodged within the space of three months from service of this notice, unless within the said three months you obtain from the Collector an extension of the said space.

(*Sd.*) *A. B.*
Collector.

COLLECTOR'S OFFICE,
Dated

Annexed Form of Return.

District

Detail of yearly profits of mines, quarries, railways and tramways in the possession or under the control of the person submitting the return :—

1	2	3	4
Districts in which the property lies.	Parganas	Name of holder or manager.	Annual nett profits per annum on the average of the last three years for which accounts have been made up.

I, *X. Y. Z.*, do declare that the statements contained in the above return are true to the best of my knowledge, information and belief.

(*Signed*)

N. B.—This return must be signed by the owner, chief agent, manager or occupier.

SCHEDULE E.

Annual rates of Road Cess on Houses.

Section 38.

Dwelling-houses estimated to be of the present value of—

	Yearly Cess.
Not less than Rs. 100 but less than Rs. 500	Re. 1-0
„ „ 500 „ „ 1,000	Rs. 3-0
„ „ 1,000 „ „ 2,000	„ 4-8
„ „ 2,000 and upwards	3 Rs. for every Rs. 1,000 or part thereof of estimated present value.

Shops and buildings used for purposes of trade, whose estimated present value is more than Rs. 25 and less than Rs. 100, to pay a yearly tax of one rupee.[a]

[a] See Bengal Act No. II of 1877 section 7.

ACT No. XI of 1871.

Received the Lieutenant-Governor's assent on the 19th of July 1871, and the Governor General's assent on the 22nd of August 1871.

An Act to enable the Lieutenant-Governor to take a census of Bengal.

Preamble.

WHEREAS it is expedient to take a census of the Provinces under the control of the Lieutenant-Governor of Bengal; It is enacted as follows:—

Power to take census.

1. It shall be lawful for the Lieutenant-Governor of Bengal, through such person or persons as he may appoint for the purpose, to take an account of the population of the Provinces subject to his control.

The account shall be taken in such manner and shall include such particulars as the Lieutenant-Governor shall direct.

Control of census-operations.

2. An officer to be appointed by the Lieutenant-Governor of Bengal shall superintend the taking of the census, and he shall cause to be prepared and issued, for the use of the persons to be employed, such forms and instructions as he shall, with the sanction of the Lieutenant-Governor, deem necessary.

Chief executive officer of district to appoint enumerators.

3. The chief executive officer of each district shall appoint a sufficient number of competent persons to be enumerators, to collect the required particulars, and to fill up the forms prescribed; and every enumerator shall be furnished with a letter of appointment signed and sealed by the said officer.

Every enumerator appointed under this Act shall, during the period of his employment, be deemed a public servant within the meaning of the Penal Code.

Chief executive officer of Justices, &c., to appoint enumerators.

4. In the town of Calcutta or in any place or town to which the provisions of the "District Municipal Improvement Act" or the "District Towns Act, 1868," respectively, passed by the Lieutenant-Governor of Bengal in Council, shall have been extended, the census may, if the Lieutenant-Governor of Bengal shall so direct, be taken by the Justices or by the Municipal Commissioners or Committee, subject to such instructions as the officer appointed under section 2 of this Act may issue; and the appointment of the enumerators of such place shall be made by the chairman or other chief executive officer of such Justices or Commissioners or Committee, who shall furnish every enumerator so appointed with a letter of appointment signed by him.

And such chief executive officer shall exercise within the limits of such town or place all the powers conferred upon the chief executive officer of a district by this Act.

And the chief executive officer of the Justices for the town of Calcutta

shall, if the Lieutenant-Governor shall so direct, also exercise the aforesaid powers within the suburbs of Calcutta.

Powers of chief executive officer.

5. It shall be lawful for any chief executive officer, while carrying out the provisions of this Act, by an order in writing, to call upon all landholders, tenure-holders and farmers in his district, or their agents, to give such assistance as the Collector may require towards the taking of the census on the lands of such persons.

Such order shall specify the nature of the assistance required.

The Lieutenant-Governor may determine by rules to be published in the *Calcutta Gazette* the nature of the assistance which the Collector may require.[a]

Power to collect information.

6. It shall be lawful for any enumerator appointed under sections 3 or 4 of this Act, to ask such questions as by his instructions he is authorized to put, for fully and correctly filling in the forms to be issued by the officer under section 2; and every person of whom such questions shall be asked shall be bound to state the truth in relation thereto; and every person refusing to answer, or wilfully giving a false answer to, any such question shall, for every such refusal or wilfully false answer, be liable to pay a fine not exceeding fifty rupees.

Penalty on misconduct of enumerators.

7. If any enumerator appointed under sections 3 or 4 of this Act shall, without shewing sufficient cause to the said chief executive officer, abstain from complying with the instructions given to him; or if he shall make any wilful neglect, default or falsification in putting the necessary questions or filling up the forms, or shall wilfully put any questions not authorized by his instructions, he shall be liable for every such neglect, default, falsification or breach of instructions, in case it do not amount to an offence within the provisions of the Indian Penal Code, to pay a fine not exceeding fifty rupees.

Enumerators in certain cases.

8. Every military or naval officer in command of any body of military or naval men, or of any vessel of war, and every master of a merchant-vessel or tug-steamer or nákodá or tindal of a vessel or boat, and every person in charge of a lunatic asylum, hospital or prison, or of any public or charitable or scholastic institution, and every keeper of any hotel or lodging-house, shall, if thereunto by the said chief executive officer required, act as an enumerator under this Act for the purpose of taking a census of persons under his command or charge, or abiding in his house at the time; and every person so required to act as an enumerator shall receive and conform to all instructions which may be issued by the officer appointed to superintend the census as aforesaid, and shall be deemed to have been duly appointed an enumerator within the provisions of this Act.

[a] See *Calcutta Gazette*, 4th October, 1871, p. 1786.

9. All prosecutions under this Act shall be instituted before a Magistrate exercising the powers of a Magistrate of the district or of a subordinate Magistrate of the first class, or before a Police Magistrate of Calcutta, as the case may require Jurisdiction in prosecutions.

ACT No. II OF 1872.

Received the Lieutenant-Governor's assent on the 13th of February 1872, and the Governor General's assent on the 12th of March 1872.

An Act to amend the law for the registration of jute-warehouses and to provide for the establishment of an efficient fire-brigade.[a]

WHEREAS it is expedient to amend so much of Act VI of 1866,[b] passed by the Lieutenant Governor of Bengal in Council, as provides for the registering and licensing of jute-warehouses; and whereas it is expedient to provide for the organization and maintenance of a fire-brigade; It is hereby enacted as Preamble.

PART I.

PRELIMINARY.

1. This Act may be called "The Jute-warehouse and Fire-brigade Act, 1872:" Short title.

It extends to the whole of the town of Calcutta, and to such portions of the suburbs thereof as are for the time being subject to the operation of Act II of 1866[c] passed by the Lieutenant-Governor of Bengal in Council, and also to the municipality of Howrah. Extent.

2. The words mentioned in this section shall, for the purposes of this Act, have the meanings herein assigned to them, except when from the context a contrary intention appears: Interpretation.

"jute" and "cotton" mean, respectively, jute and cotton which have not been pressed or screwed as if for shipment: "Jute." "Cotton."

"person" includes a firm and a Hindú undivided family: "Person."

"Insurance Company" means any association or person who may carry on the business of fire-insurance, whether such association be incorporated or not, and the agent or agents of such association or person: "Insurance Company."

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[a] See Bengal Acts No. II of 1875, and No. I of 1877.
[b] Repealed by Bengal Act No. IV of 1876.
[c] See *supra*, p. 511.

"Magistrate." "magistrate" includes a Justice of the Peace for Calcutta, and any person exercising all or any of the powers of a Magistrate:

"Jute-warehouse." "jute-warehouse" means any warehouse, store, depôt, yard, godown or other place used for the storing, keeping, pressing or depositing of jute or cotton, or other substance for the time being subject to the operation of this Act.

"The Commissioners." "the Commissioners" in this Act means the corporation of the town of Calcutta:[a]

3.—[*Repealed by Act No. XII of 1873.*]

PART II.[b]

JUTE-WAREHOUSES.

Existing warehouses not to be used till licensed. 4. No jute-warehouse, existing at the date of the commencement of this Act within the limits of its operation, shall be used, after the thirty-first July next following such date, for the storing, keeping, pressing or depositing of jute or cotton, unless the owner or occupier thereof shall have previously obtained a license under this Act for such use.

Existing warehouses to be inspected and reported on. 5. As soon as may be after the passing of this Act the Commissioners[c] at a special meeting shall appoint from their own number a special committee, consisting of seven members, one of whom must be the chairman of the Commissioners, whose duty it shall be to visit, inspect and report on every jute-warehouse existing within the town of Calcutta.

And the special committee shall report, before the fifteenth day of the said month of July, to the Commissioners whether a license can be granted to all or any such warehouses, without risk to life and property in the neighbourhood thereof respectively.

No jute-warehouse shall be reported upon by the special committee until it shall have been visited by a quorum of not less than three members of the special committee.

The Commissioners at a special meeting may award such fee as they may think fit to each member of the special committee, not being a salaried member of the corporation of Justices.[d]

Licenses for existing warehouses. 6. On receiving the report of the committee it shall be within the discretion of the Commissioners at a special meeting to grant or refuse a license for any jute-warehouse mentioned in the said report:

Provided that, if in the opinion of the Commissioners the said jute-warehouse may be rendered fit for use without risk to life or property in the

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a See Bengal Act No. I of 1877, section 3.
b See Bengal Act No. II of 1875, section 6.
c See Bengal Act No. I of 1877, section 2.
d *Sic.* Read "Commissioners."

neighbourhood thereof, the Commissioners shall certify to the owner and occupier thereof the conditions and restrictions under which the said jute-warehouse may in their opinion be so rendered fit for use, and upon the said owner or occupier complying with the terms of such conditions and restrictions to the satisfaction of the Commissioners at a special meeting, they shall grant to him a license in respect thereof.

Every license granted under this section shall be subject to the payment of an annual fee to be imposed and paid in manner as in the next succeeding section is directed, and to such other of the conditions mentioned therein as the Commissioners may think fit.

Licenses for new warehouses.

7. Any person proposing to use any land for the purposes of a jute-warehouse within the town of Calcutta, shall send to the Commissioners a plan of such land and all the buildings thereon, prepared in such manner as the Commissioners may direct, and it shall be within the discretion of the Commissioners at a special meeting to grant or refuse a license to establish the same.

Every license for a jute-warehouse to be granted under this section shall be subject to the following conditions, namely :—

(1) that no loose jute, jute-rejections or cuttings, or cotton shall be stored, or screwed, or pressed, save within a building constructed of such materials, and on such a plan, as may be approved of by the Commissioners;

(2) that no loose jute, jute-rejections or cuttings, or cotton shall be combed or dried except within an enclosure approved of by the Commissioners:

Provided that the top or roof of any building or of any hut shall not be used for such combing or drying;

(3) that space shall be reserved on land appertaining to the jute-warehouse for the loading or unloading of carts;

(4) that no portion of the jute-warehouse shall be used as a residence, and no artificial light (other than one duly and thoroughly protected), or lucifer matches, shall be introduced therein, and no person shall smoke therein;

(5) that the jute-warehouse shall at all times be open to the inspection of officers duly appointed by the Commissioners;

(6) that the engines and furnaces used in the jute-warehouse shall be placed as may be considered necessary by the Commissioners;

(7) that an annual fee, as the Commissioners at a special meeting may think fit, shall be imposed in respect thereof at one of the following rates, namely :—

Rupees	1,000
„	750
„	500
„	250

and shall be paid in such instalments as the Commissioners may direct

In fixing the amount of fee to be paid in respect of any jute-warehouse, the Commissioners at such special meeting shall have regard to the annual value thereof as it is for the time assessed, to the payment of municipal taxes, to the size and position of the jute-warehouse, to the number and excellence of the pressing machines erected, or proposed to be erected, in such jute-warehouse, and to the probable income derived from such jute-warehouse by its owner or occupier.

The Commissioners may from time to time, as they shall think fit at a special meeting, alter the amount of the fee in accordance with the rates hereinbefore mentioned, to be paid in respect of any jute-warehouse.

Appointment of inspecting officers.

8. The Commissioners shall appoint suitable officers for the inspection of jute-warehouses within the town of Calcutta; and it shall be lawful for any officer so appointed, and for any superintendent or inspector of Police within the said town, to enter at any time into any jute-warehouse, where jute or cotton may be kept, and to inspect the same.

9, 10.—[*Repealed by Bengal Act No. II of 1875.*]

Penalties.

Penalty for not taking out license.

11. Any person who shall, after the thirty-first day of the said July, without a license under this Act, use any jute-warehouse for keeping or depositing jute or cotton, shall be liable, on conviction before a Magistrate, to a penalty not exceeding one hundred rupees for each day during which he may use or continue to use such jute-warehouse as aforesaid.

Penalty for establishing warehouse without license.

12. Any person who shall without a license use any jute-warehouse for keeping or depositing jute or cotton established after the commencement of this Act, shall be liable, on conviction before a Magistrate, to a penalty not exceeding five hundred rupees, and to a further penalty not exceeding fifty rupees for every day during which such jute-warehouse is used for keeping or depositing jute or cotton without a license.

Penalty for using warehouse after refusal of license.

13. Any person who shall, after the thirty-first day of the said July, use a jute-warehouse for the keeping or depositing of jute or cotton after the Commissioners[a] or Municipal Commissioners shall have refused or cancelled a license in respect thereof, or during the time for which such license shall have been suspended, shall be liable, on conviction before a Magistrate, to a penalty not exceeding five hundred rupees, and to a further penalty not exceeding one hundred rupees for every day during which any such jute-warehouse may be so used as aforesaid.

14.—[*Repealed by Bengal Act No. II of 1875.*]

[a] See Bengal Act No. I of 1877, section 1.

PART III.

FIRE-BRIGADE.

Organization of fire-brigade.

15. Within six months from the date of the passing of this Act the Commissioners shall organize, and thereafter maintain, an efficient fire-brigade for the town and suburbs of Calcutta.

All existing public fire-engines, with the establishments and buildings thereto belonging, except those belonging to the Military Department or to the Port Commissioners incorporated under Act V of 1870,[a] shall be transferred to the fire-brigade to be established under this Act.

The Commissioners shall have power to appoint and remove any members or officers of the fire-brigade; and they shall furnish the fire-brigade with all such steam or other fire-engines, horses, oxen, accoutrements, tools and implements as may be necessary for the complete equipment of the force, or conducive to the efficient performance of their duties.

Power to frame bye-laws.

16. The Commissioners at a special meeting may frame bye-laws in respect of the following subjects:—

(1) giving of gratuities to persons who have given notice of fires:

(2) awarding gratuities by way of a gross sum or annual payment to be from time to time awarded to any member of the fire-brigade or other person specially deserving of reward:

(3) for the training, discipline and good conduct of the members of the force, not being members of the Calcutta and suburban Police-force:

(4) for the speedy attendance of such members with engines and all necessary implements on the occasion of any alarm of fire:

(5) imposing and summarily realizing a fine not exceeding one week's wages from any member of the brigade who may infringe these bye-laws:

(6) and, generally, for the maintenance of the fire-brigade in a due state of efficiency.

Powers of fire-brigade in cases of fire.

17. On the occasion of a fire, the chief or other officer in charge of the fire-brigade on the spot may remove, or may order any member of the brigade to remove, any persons whose presence shall interfere with the due operation of the brigade; and, generally, he may take any measures which may appear necessary for the preservation of life and property; and he shall have power by himself or by his men to break into or through, or pull down, any premises for the purpose of putting an end to the fire, doing as little damage as possible; and he may also cause the mains and pipes of any district to be shut-off, so as to give greater pressure of water in the place where the fire has occurred.

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[a] See *supra*, p. 651.

He may also call on the officer in charge of the Port Commissioners' fire-engine to render such assistance as may be possible in the case of any fire occurring near the river-bank.

The chief officer on the spot in charge of the brigade may verbally nominate and depute one or more officers of the brigade to act at a distance, and such officer or officers shall have for the time being the like powers as the chief officer himself possesses under this section.

Police-officers to assist.

Police-officers of all grades shall be authorized to aid the fire-brigade in the execution of its duties.

They may close any street in or near which a fire is burning, and they may, of their own motion or on the request of the chief or other officer of the fire-brigade, remove any persons who interfere by their presence with the operations of the fire-brigade.

Damage done to be deemed damage by fire.

Any damage done by the fire-brigade in the due execution of their duties shall be deemed to be damage by fire within the meaning of any policy of insurance of property in Calcutta or the suburbs against fire.

But nothing in this section shall exempt any officer of the Police or of the fire-brigade from liability to damages on account of any acts done by him without reasonable cause.

Inquiry into origin of fire.

18. In the case of any fire occurring in Calcutta or the suburbs, the chief officer of the fire-brigade shall ascertain the facts as to the origin and cause of such fire, and shall make a report thereon to the Magistrate having jurisdiction in the place in which such fire shall have occurred, and the said Magistrate, in any case where he may see fit, shall summon witnesses and take evidence in order to the further ascertainment of such facts.

Licenses and Penalties.

License for using fire-works.

19. No person shall let-off rockets or send up fire-balloons in the town or suburbs of Calcutta without a license from the Commissioner of Police, for which license a fee of ten rupees shall be payable.

License for sale or manufacture thereof.

20. No person shall sell or manufacture fire-works in the town or suburbs of Calcutta without a license from the Commissioner of Police, for which a yearly fee of ten rupees shall be payable in advance.

Penalty for using without license.

21. Whoever shall let-off rockets or send up fire-balloons in the town or suburbs of Calcutta without a license as aforesaid, shall be liable, on conviction before a Magistrate, to a penalty not exceeding fifty rupees for any one such offence.

Penalty for selling, &c.

22. Whoever shall sell or manufacture fire-works in the town or suburbs of Calcutta without a license as aforesaid, shall be liable, on conviction before a Magistrate, to a penalty not exceeding fifty rupees.

23. The Commissioner may at his discretion, and after thirty days' notice, withdraw or suspend any license granted by him under this Act. Power to withdraw license.

24. In the event of any rockets being let-off, or fire-balloons sent up, within the precincts of any private premises or compound within the town or suburbs of Calcutta, without the express permission in writing of the Commissioner of Police, the occupier or owner, or person under whose immediate control the said premises or compound is, shall be liable to a fine not exceeding fifty rupees, unless he can prove who the person having committed the offence is, and that the offence was committed without his knowledge. Liability of house-holders.

PART IV.

EXPENSES AND FUNDS.

25. The Commissioners[a] and Municipal Commissioners respectively shall apply the monies derived from the fees and penalties levied under this Act within their respective jurisdictions in payment of all expenses incurred by them respectively in or about the inspection and superintendence of jute-warehouses, and the granting of licenses in respect thereof. Application of fund.

In the case of Calcutta and the suburbs, the balance of such monies after payment of the said expenses shall be paid to the credit of an account in the books of the Commissioners, to be called the fire-brigade account; and shall be applied by the Commissioners for the benefit of the town of Calcutta and the suburbs thereof in such manner as the Lieutenant-Governor of Bengal may direct;

and in the case of the municipality of Howrah, the balance of such monies after payment of the said expenses shall be paid to the credit of the Municipal Commissioners of Howrah, and shall be applied by them for the purposes of a fire-brigade, or for such other purposes for the benefit of the municipality of Howrah as the Lieutenant-Governor of Bengal may direct.[b]

26. Every Insurance Company that insures from fire any property within the town and suburbs of Calcutta shall pay annually to the Commissioners, by way of contribution towards the expenses of the said fire-brigade, a sum at the rate of half a rupee for every ten thousand rupees on the gross amount insured by it in respect of such property. Contribution by Insurance Companies.

All sums paid to the Commissioners under this section shall be credited to the fire-brigade-fund.

The said payments shall be made quarterly in advance, on such dates as the Commissioners may appoint: and arrears on account of these payments

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[a] See Bengal Act No. I of 1877, section 1.

[b] See *ibid.*, section 7.

shall be realizable as if they were arrears of rates due to the Commissioners, and all the provisions of the Calcutta Municipal Consolidation Act, 1876,[a] (passed by the Lieutenant-Governor of Bengal in Council) and of any Act amending the same, shall be applicable, so far as the circumstances will permit, to the recovery of monies due under this section.

Insurance Companies to make returns.

27. For the purpose of ascertaining the amount to be contributed by every such Insurance Company as aforesaid, every Insurance Company insuring property from fire within the town and suburbs of Calcutta shall, on the thirtieth day of June 1872, and on every succeeding thirtieth day of June, or on such other days as the Commissioners may appoint, make a return to the said Commissioners, in such form as they may require, of the gross amount insured by it in respect of property within the said town and suburbs.

At the foot of every such return shall be appended a certificate by the secretary or chief officer or manager of such Insurance Company in Calcutta, stating that, to the best of his knowledge and belief, the return contains a true and faithful account of the sums insured by the Company to which he belongs in respect of such property.

Such secretary or chief officer or manager shall allow either the chairman or the vice-chairman or the secretary to the Commissioners to inspect, at any time during the hours of business, any books and papers that will enable him to ascertain the correctness of the return; and every secretary or chief officer or manager as aforesaid, failing to comply with the requisition of this section in respect of such inspection, shall be liable, on conviction before a Magistrate, to a penalty not exceeding fifty rupees for each offence.

The Commissioners on receiving the report of such inspection may alter the return accordingly.

The return made in the June of one year, or such return as altered on inspection by the Commissioners, shall be the basis of the contributions for the year beginning on the first day of January next succeeding.

Penalty for not making return.

28. If any Insurance Company makes default in making such returns to the Commissioners as are required by this Act, the said Company or secretary or chief officer or manager thereof shall be liable to a penalty not exceeding fifty rupees for every day during which it is so in default.

Proportions of contribution towards payment of expenses of fire-brigade

29. The cost of all establishments and plant hired or purchased, and of all other charges under Part III of this Act, shall be paid from the fire-brigade-fund.

The full amount of such charges over and above the monies which may accrue to the fire-brigade-fund under sections 25 and 26 of this Act, shall be contributed by the Commissioners, and by the Commissioners of the suburbs,

[a] Bengal Act No. IV of 1876.

in the following proportions, namely,—by the Commissioners,[a] seven-tenths; by the said Commissioners, three-tenths.

At the end of each quarter of a year, the Commissioners [b] shall certify to the said Commissioners the total cost of the fire-brigade for such year, the money which may have accrued under sections 25 and 26 of this Act, and the precise sum which must be paid by each body charged with the cost of the Calcutta fire-brigade under this Act.

On the receipt of such certificate, the said Commissioners shall pay the sum certified against them by the Commissioners: provided that in no case shall the three-tenths payable by the said Commissioners in any year after the first year of the establishment of the fire-brigade exceed the sum of ten thousand rupees.

PART V.

MISCELLANEOUS.

Lieutenant-Governor may declare the warehousing of any other substance to be subject to Act.

30. It shall be lawful for the Lieutenant-Governor of Bengal, on the recommendation of the Commissioners passed by resolution, to declare that any other fibre or any commodity which is stored or deposited in warehouses besides jute or cotton, shall be warehoused, and kept subject to the provisions of Part II of this Act.

When such declaration shall have been made in the *Calcutta Gazette*, this Act shall be read as if the name or names of the said fibre or commodity had been printed in addition to the words "jute" or "cotton" in the several sections of Part II, wherein the said words jute or cotton may occur.

Submission of reports.

31. The Commissioners and Municipal Commissioners respectively shall make a report to the Lieutenant-Governor, as soon as conveniently may be after the thirty-first July next, showing how the provisions of this Act have been carried out, and specifying the jute-warehouses in respect of which licenses have been granted.

Such reports shall be forthwith published in the *Calcutta Gazette*.

And thereafter the Commissioners and Municipal Commissioners shall make a like report once a year at such time as the Lieutenant-Governor shall direct.

Power to arrest.

32. Any person committing any offence in respect of which a penalty is provided by section 14 or section 24 of this Act may, if his name and address be unknown, be arrested by any officer to be by the Commissioners or the Municipal Commissioners within their respective jurisdictions thereunto appointed, and by such officer or any person by him thereunto authorized, or by any officer of Police, forthwith conveyed before some Magistrate having juris-

[a, b] See Bengal Act No. I of 1877, section 1.

diction in the place in which such offence shall have been committed, or shall be taken to the nearest Police-station within the said jurisdiction in order that such person may be detained until he can be brought before a Magistrate, or until he shall enter into recognizance with or without sureties for his appearance before a Magistrate.

Offenders to be brought to trial.

33. Whenever such person shall be taken to a Police-station, the officer in charge of such station shall, as soon as conveniently may be, cause him to be conveyed before some Magistrate having jurisdiction in the matter.

Summary jurisdiction.

34. Whenever any person shall be charged with the commission of any offence under this Act before a Magistrate, such Magistrate may forthwith hear and summarily determine the charge of such offence.

Any thing made punishable by this Act shall be deemed to be an offence within the meaning of the Indian Penal Code, and without the limits of the town of Calcutta, shall be dealt with, save as herein otherwise provided, under the provisions of chapter XV of the Code of Criminal Procedure.[a]

Construction.

35. This Act so far as it relates to the town of Calcutta shall be read with, and taken as part of, the said Calcutta Municipal Consolidation Act, 1876,[b] and the subsequent Acts amending the same; and so far as it relates to the suburbs of Calcutta, or to the Municipality of Howrah, it shall be read with, and taken as part of, the Bengal Municipal Act, 1876,[c] passed by the Lieutenant-Governor of Bengal in Council, and of the subsequent Acts amending the same.

ACT No. III of 1872.

Received the Lieutenant-Governor's assent on the 16th of March 1872, and the Governor General's assent on the 6th of June 1872.

An Act to amend the Calcutta Port Improvement Act, being Act V of 1870 passed by the Lieutenant-Governor of Bengal in Council, and to amend Act XXII of 1855.

Preamble.

WHEREAS it is expedient to give to the Commissioners for making improvements in the port of Calcutta a like indemnity to that which is given to the East India Company by section 61 of Act XXII of 1855,[d] and otherwise to amend the said Act; It is hereby enacted as follows :—

Indemnity to Port Commis-

1. The said Commissioners shall not be answerable for any act or default

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[a] *Read* "chapter XVI, and the provisions applicable to summons cases," Act No. X of 1872, section 2.

[b] Bengal Act No. IV of 1876.

[c] Bengal Act No. V of 1876.

[d] See, now, the Indian Ports Act, No. XII of 1875, sections 3 and 19.

of any Conservator or Harbour-master of the said port, or of any Deputy or assistant of the said officers, or of any person acting under the authority or directions of any such officer or assistant, heretofore or hereafter done within the limits of the said port; nor for any damage or injury heretofore or hereafter sustained by any vessel in consequence of any defect in any of the moorings, hawsers or other thing belonging to the said Commissioners within the said port which may be used by such vessel: sioners against default of officers, &c.

Provided that nothing in this section shall protect the said Commissioners from an action in respect of any act done by or under the express order or sanction of the said Commissioners.

2. Section 23 of the said Act XXII of 1855[a] is hereby repealed so far as the same affects the port of Calcutta, but such repeal shall not affect any act done or liability incurred under the said section. Repeal of section 23, Act XXII of 1855.

3. If any vessel with or without cargo shall be wrecked, stranded or sunk within the limits of the said port, the Commissioners may in any case cause the same to be raised, removed or destroyed; or they may call on the owner, master or consignee thereof, to cause the same to be raised, removed or destroyed; and if the said owner, master or consignee, when called upon, shall refuse or neglect forthwith so to do, the Commissioners in that case also may cause the same to be raised, removed or destroyed. Commissioners may raise wreck, &c. and charge reasonable expenses.

Unless all expenses in or towards executing any works undertaken by the Commissioners under this section shall be repaid within one month after the completion thereof, the Commissioners may recover the same in the manner provided by the next succeeding section.

The amount claimable and due under this section shall include all monies expended, reasonable remuneration for labour and for the use of the property and appliances of the Commissioners, and a further sum of twenty per cent. on the total amount so due in respect of monies expended and of remuneration.

If any dispute shall arise concerning the amount due to the Commissioners under this section, the same shall be determined by a Magistrate, who, upon application made to him for that purpose, shall have power to determine such amount, and to award such costs as he shall think reasonable to be added to or deducted from the amount due under this section as he shall direct; and whose decision shall be final.

4. If the property recovered under the next preceding section is unclaimed; or if the person claiming the same refuses or neglects to pay the amount due to the Commissioners under the next preceding section in respect thereof, such Sale of property if unclaimed, or if expenses unpaid.

[a] Repealed by Act No. XII of 1875.

property, if of a perishable nature, may be sold forthwith, and if not of a perishable nature, may be detained by the Commissioners at the risk and expense of all parties interested therein, and may be sold at any period not less than two months after the recovery thereof, by public auction, and after the realization of the proceeds thereof the amount due to the Commissioners as aforesaid shall be deducted therefrom and paid to the Commissioners, and the balance shall be paid to the person entitled to recover on his applying for the same; provided that such application be made within one year from the sale of such property, or good reason to the satisfaction of the Commissioners be shewn why such application was not made.

Otherwise such balance shall be held by the Commissioners, upon trust for the purposes of the said Act V of 1870.[a]

5.—[*Repealed by Act No. XII of 1875.*]

Duty of Police-officers.

6. It shall be the duty of all Police-officers to give immediate information to the Commissioners of any offence committed contrary to the provisions of the said Act V of 1870, or of the Indian Ports Act, 1875,[b] or of any bye-laws or rules having the force of law prescribed in accordance therewith.

Any Police-officer may arrest any person committing in his view any offence against any of the said provisions, if the name and address of such person be unknown.

Such person may be detained at the station-house until his name and address shall be correctly ascertained.

Construction.

7. This Act shall be read with, and taken as part of, the said Act V of 1870, and of the said Indian Ports Act, 1875.

ACT No. I OF 1873.

Received the Lieutenant-Governor's assent on the 15th of February 1873, and the Governor General's assent on the 7th of March 1873.

An Act to amend the Salt Act, 1864.

Preamble.

WHEREAS by "The Salt Act, 1864," being Bengal Act VII of 1864,[c] section 3, it is enacted that the word "Magistrate" means any person exercising the full powers of a Magistrate under the Code of Criminal Procedure, Act XXV of 1861; and whereas the said Act XXV of 1861 has been repealed by the Code of Criminal Procedure, Act X of 1872, by which later enactment new rules have been enacted, assigning the several powers of Magistrates of the first, second and third classes;

[a] See *supra*, p. 651. [b] Act No. XII of 1875, sec. 3, cl. 3. [c] See *supra*, p. 492.

And whereas reference is made in the Salt Act, 1864, to Act XIII of 1856 (*for regulating the Police of the town of Calcutta, &c.*) and Act XLVIII of 1860 (*to amend Act XIII of 1856*), which enactments have been repealed, so far as they relate to the town of Calcutta, by "The Calcutta Police Act, 1866," being Bengal Act IV of 1866[a];

It is hereby enacted as follows:—

Powers of Magistrate under Salt Act, 1864.

1. All the powers which, under the provisions of the Salt Act, 1864, may be exercised by a Magistrate, may be exercised by a Magistrate of the first or second class, subject to the provisions of section 20 of the Code of Criminal Procedure.

Trial of offences under said Act.

2. All offences punishable under the provisions of the Salt Act, 1864, may be inquired into and tried by a Magistrate of the first or second class.

References in said Act to Calcutta Police Act.

3. All references made to the said Act XIII of 1856 and the said Act XLVIII of 1860, in the Salt Act, 1864, shall be taken to be made to the Calcutta Police Act, 1866.

ACT No. IV of 1873.

Received the Lieutenant-Governor's assent on the 21st of April 1873, and the Governor General's assent on the 25th of June 1873.

An Act for registering births and deaths.

Preamble.

WHEREAS it is expedient to provide the means for a complete register of births and deaths; It is hereby enacted as follows:—

Power to direct registration of births and deaths; and define area.

1. The Lieutenant-Governor may at any time, by a notification published in the *Calcutta Gazette*, direct that all births and deaths, or all births, or all deaths, occurring within the limits of any area after a certain date to be named in such notification shall be registered, and for that purpose may define the limits of such area.[b]

From and after such date this Act shall apply to the whole of the area so defined:

Magistrate may divide area into districts, and may appoint registrars.

2. The Magistrate of the district may, for the purpose of such registration, divide any such area into such and so many districts as he may think fit, and may appoint one or more persons to be registrars of births or of deaths, or of births and deaths, within such district, and may at any time for sufficient reason dismiss any such registrar, and may fill up any vacancy in the office of registrar.

Magistrate

The Magistrate shall cause to be published a list containing the name and

[a] See *supra*, p. 526.

[b] See *Calcutta Gazette*, 1874, p. 1746; *ibid.*, 1875, pp. 1123, 1418; *ibid.*, 1876, pp. 60, 81, 253, 254, 291, 292, 372, 448, 954, 1121, 1268, 1285, 1299, 1343, 1426, 1427, 1456, 1482, 1483,

to publish list of registrars.

place of office of every registrar in the area, and specifying the hours of the day during which such registrar shall attend at his office for the purpose of registration.

Every registrar to have office in district.

3. Every registrar shall have an office within the district of which he is appointed registrar, and shall cause his name, with the addition of registrar of births (or of deaths, or of births and deaths, according to his appointment) for the district for which he is so appointed, and notice of the hours during which he will attend for the purpose of registration, to be affixed in some conspicuous place on or near the outer door of his office.

Commissioners to have register-books prepared and numbered.

4. The Magistrate shall cause to be prepared a sufficient number of register-books for making entries of all births or deaths or both, according to such forms as the Lieutenant-Governor may from time to time sanction; and the pages of such books shall be numbered progressively from the beginning to the end; and every place of entry shall be also numbered progressively from the beginning to the end of the book, and every entry shall be divided from the following entry by a line.

Registrar to inform himself of, and register, births and deaths.

5. Every registrar shall inform himself carefully of every birth, or of every death, or of both, according to his appointment, which shall happen in his district; and shall register, as soon as conveniently may be after the event, without fee or reward, the particulars required to be registered, according to the forms mentioned in the last preceding section, touching every such birth or every such death; as the case may be, which shall not have been already registered.

Chaukídár to obtain particulars and to report to registrar.

6. Every chaukídár or other village-watchman in any area to which this Act shall apply, or where there is no chaukídár or other village-watchman, such person as the Magistrate may appoint, shall be required to report every birth or death occurring within his beat to such registrar and at such periods as the Magistrate may direct.

He shall obtain in writing if possible, and if it is impossible for him to obtain in writing, he shall obtain verbally, from any person who is bound to give information of the birth or death all particulars which are required to be known and registered, and he shall report such particulars to the registrar.

Penalty for neglect.

Any chaukidár or other village-watchman or other person so appointed who wilfully or negligently refuses or omits to produce such writing, if any, or to report such birth or death, shall be punishable at the discretion of the Magistrate with fine which may extend to two rupees.

Persons bound to give information of birth.

7. The father or mother of every child born within such area, or in case of the death, illness, absence or inability of the father and mother, the midwife assisting at the birth of such child, shall, within eight days next after the day of every such birth, give information, either personally or in writing, to the

registrar of the district, or by means of the chaukídár or other village-watchman or other person as provided in the last preceding section, according to the best of his or her knowledge and belief, of the several particulars hereby required to be known and registered touching the birth of such child.

Penalty for neglect.

Any person who refuses or neglects to give any information which it is his duty to give under this section, shall be punishable at the discretion of the Magistrate with fine which may extend to five rupees :

Provided that not more than one person shall be punishable at the discretion of the Magistrate for such refusal or neglect to give information.

Persons bound to give information of death.

8. The nearest male relative of the deceased present at the death, or in attendance during the last illness of any person dying, within such area, or, in the absence of any such relative, the occupier of the house, or, if the occupier be the person who shall have died, some male inmate of the house in which such death shall have happened, shall, within eight days next after the day of such death, give information either personally or in writing to the registrar of the district, or by means of the chaukídár or other village-watchman or other person as provided in section 6, according to the best of his knowledge and belief, of the several particulars hereby required to be known and registered touching the death of such person [a] :

Provided that no person shall be bound to give the name of any female relative.

Penalty for neglect.

Any person who refuses or neglects to give any information, which it is his duty to give under this section, shall be punishable at the discretion of the Magistrate with fine which may extend to five rupees :

Provided that not more than one person shall be punishable for such refusal or neglect to give information.

Penalty for registrar refusing to register.

9. Any registrar [b] who refuses or neglects to register any birth or death occurring within his district, which he is bound to register, within a reasonable time after he shall have been duly informed thereof, or demands or accepts any fee or reward or other gratification as a consideration for making such registry, shall be punishable at the discretion of the Magistrate with fine which may extend to fifty rupees for each such refusal or neglect.

Penalty for wilfully giving false information.

10. Whoever wilfully makes or causes to be made, for the purpose of being inserted in any register of births or deaths, any false statement touching any of the particulars required to be known and registered, shall be punishable at the discretion of the Magistrate with a fine not exceeding fifty rupees.

Municipality under Act III of 1864 may

11. In any place to which the District Municipal Improvement Act shall have been extended, the Municipal Commissioners may, if at a meeting

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a, b See Bengal Act No. V of 1876, section 297.

arrange for keeping register of births or deaths, or both.

specially convened for considering such question they shall so determine, arrange for keeping a register of all births, or of all deaths, or of all births and deaths, occurring within the municipality.

On and after a date to be fixed at such meeting, the Commissioners shall in such case be authorized to provide out of the municipal fund for the employment of a sufficient number of registrars, and for the expenditure necessary for the maintenance of such registers, and shall exercise all the powers of a Magistrate under this Act; and all the provisions of this Act shall be deemed to apply to such place.

Magistrate may depute subordinate Magistrate to discharge his functions.

12. The Magistrate of a district may depute any subordinate Magistrate to exercise the powers and to perform the duties vested in the Magistrate by this Act, within such district or any part thereof.

ACT No. V of 1873.

Received the Lieutenant-Governor's assent on the 16th of August 1873, and the Governor General's assent on the 13th of September 1873.

An Act to provide for the levy of a lighting-rate in Howrah.

Preamble.

WHEREAS it is desirable to make further provision for lighting the town of Howrah with gas, by imposing a rate on those persons who benefit thereby; It is hereby enacted as follows:—

"The town of Howrah."

1. The expression "the town of Howrah" in this Act shall be taken to mean the area of the Howrah Municipality as defined by the Lieutenant-Governor under the provisions of section 3 of the District Municipal Improvement Act, being Bengal Act III of 1864.[a]

Municipal Commissioners may submit to Lieutenant-Governor plan for lighting.

2. It shall be lawful for the Municipal Commissioners from time to time to submit to the Lieutenant-Governor for his sanction a plan for lighting with gas any portion of the town of Howrah, whether so lighted already or not, such portion of the said town having been previously defined by the Municipal Commissioners at a meeting held for that purpose.

The Lieutenant-Governor shall cause the plan to be published for one month in the *Calcutta Gazette*, and the Municipal Commissioners shall publish it in the vernacular in the town of Howrah; and after such publication, and after consideration of any objections which may be raised to it, or alterations suggested in it, the Lieutenant-Governor may, if satisfied that the lighting proposed in the plan is proper and sufficient, sanction such plan; or may refuse his sanction thereto; or may return it to the Municipal Commis-

[a] Repealed by Bengal Act No. V of 1876.

sioners for alteration in certain particulars to be specified by him, and, when altered, may sanction it as altered.

The Lieutenant-Governor shall cause his sanction to any plan to be notified in the *Calcutta Gazette*, and shall at the same time cause the plan sanctioned to be published in the said *Gazette*.

Lighting-rate imposible after sanction of plan.

3. After notification by the Lieutenant-Governor as in the last preceding section mentioned, it shall be lawful for the Municipal Commissioners to impose an annual rate not exceeding three per centum of their annual value upon all houses, buildings and lands situated within such portion of the said town for the purpose of defraying the whole expense of lighting:

Proviso as to portions already lighted

Provided that, as regards any portion of the said town already lighted with gas, and for the future lighting of which a plan shall have been sanctioned by the Lieutenant-Governor under the provision of the last preceding section, if it shall appear that the estimated proceeds of the said rate at three per centum will not be sufficient to defray the whole expense of such lighting, it shall be lawful for the Municipal Commissioners to impose a rate sufficient to defray the whole expense of lighting such portion.

Payment of rate by occupiers.

4. The rate imposed under section 3 upon houses, buildings and lands, shall be paid by the occupiers thereof by quarterly instalments in advance; but no rate shall be leviable until the lamps in the portion of the town to be lighted shall have been lighted; nor shall any rate be leviable for any quarter or portion of a quarter antecedent to such lighting.

Arable lands, &c., exempted

Arable lands and lands used for pasturage, and buildings used exclusively as places of public worship, or applied solely to charitable purposes, shall not be liable to the rate.

Annual valuation how made.

5. The annual value of the said houses, buildings and lands shall be the value fixed by the Municipal Commissioners year by year under the provisions of section 27 of the District Municipal Improvement Act.[a]

Assessment and collection.

And all the provisions of the said Act, and of Bengal Act VII of 1867,[b] relating to the assessment and collection of the rate on houses, buildings and lands shall, except so far as they are modified by the provisions of this Act, be applicable to the assessment and collection of the lighting-rate.

Power to assess owners.

6. If any house, building or land shall be occupied by more than one tenant holding in severalty, or shall be of less annual value than one hundred rupees, it shall be lawful for the Municipal Commissioners to recover the rate from the owner of such house, building or land.

Owner may recover rates

7. Whenever any rate shall be recovered from any owner of any house, building or land under the provisions of the last preceding section, it shall be

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a, b See, now, Bengal Act No. V of 1876.

paid by him from occupier.

lawful for such owner, if there shall be but one occupying tenant of such house, building or land, to recover from such tenant the entire amount of the rate which shall have been so paid by such owner; and if there shall be more than one occupying tenant of such house, building or land, then to recover from each of such tenants such sum as shall bear to the entire amount of rate which may have been so recovered from such owner, the same proportion as the value of the portion of such house, building or land in the occupation of such tenant bears to the entire value of such house, building or land, subject however to the provisions of section 8 of this Act.

Owner may recover rate so paid as rent.

8. Every owner who under the provisions of the last preceding section may be entitled to recover any sum from any occupying tenant of any house, building or land, or of any portion thereof, shall have for the recovery of such sum all such and the same remedies, powers, rights and authorities as if such sum were rent payable to such owner by such tenant in respect of so much of such house, building or land as may be in the occupation of such tenant.

Occupier liable to rate for time of occupation only.

9. Every occupier shall be liable to the lighting-rate for the time of his occupation.

When any person shall have been an occupier for a part only of any quarter, he shall be liable only for so much of the rate for that quarter as may be proportionate to the number of days during which he shall have been an occupier.

Excess paid in advance to be refunded.

If he shall have paid the rate in advance, the amount paid in excess of the sum due under this section shall be refunded.

No rate to be charged during vacancy.

No such rate shall be chargeable to any person on account of any unoccupied house, building or land for the time during which it may remain unoccupied:

Notice of cessation of occupancy to be given within seven days.

Provided always, that when any person ceases to be the occupier of any house, building or land upon which the rate has been assessed, he shall give the Municipal Commissioners notice thereof within seven days from the date of the cessation of his occupancy.

If the occupier fail to give such notice within such period, he shall be liable to the rate assessed on such house, building or land for the whole quarter, although he may have occupied for a part only of such quarter; and in cases to which the provisions of section 6 of this Act apply, the rate assessed on such house, building or land for the whole quarter shall be recoverable from the owner, if such owner has failed to give notice that such house, building or land is unoccupied, within seven days from the date on which it ceased to be occupied.

Unknown owner or occupier how designated.

10. When the name of the owner or occupier of any house, building or land is not known, it shall be sufficient to designate him in any notice served or proceeding held under this Act, as the owner or the occupier of the house, building or land on which the rate is assessed, and without further description.

Situation of gas-pipe or work to be altered at expense of Commissioners.

11. If the Municipal Commissioners deem it necessary, for the purposes of this Act, to raise, sink or otherwise alter the situation of any gas-pipe or other gas-work, laid in any portion of the said town, they may from time to time, by notice in writing, require the person to whom any such pipe or work belongs, or under whose control it may be, to cause forthwith, or as soon as conveniently may be, any such pipe or work to be raised, sunk or otherwise altered in position, in such manner as the Commissioners may direct; provided that such alteration be not such as permanently to injure such pipe or work, or to prevent the gas from flowing as freely and conveniently as before; and the expenses attending such raising, sinking or altering, and full compensation for the damage done thereby, shall be paid by the Commissioners out of the Municipal fund as well to the person to whom such pipe or work belongs as to all other persons.

If owner, &c., neglect to alter, Commissioners may do so.

12. If the person to whom any such pipe or work belongs, or under whose control it may be, do not proceed forthwith, or as soon as conveniently may be, after the receipt of such notice, to cause the same to be raised, sunk or altered in such manner as the Municipal Commissioners require; the Commissioners may themselves cause such pipe or work to be raised, sunk or altered as they may think fit, provided that such works be not permanently injured thereby, or the gas prevented from flowing as freely and conveniently as before.

Construction.

13. This Act shall be construed with, and as part of, the District Municipal Improvement Act.[a]

ACT No. VI OF 1873.

Received the Lieutenant-Governor's assent on the 2nd of December 1873, and the Governor General's assent on the 20th idem.

An Act to amend the law relating to embankments and watercourses.[b]

Preamble.

WHEREAS it is expedient that provision should be made for the better construction, maintenance and management of embankments and watercourses in the territories subject to the Lieutenant-Governor of Bengal; It is enacted as follows:—

PART I.

Preliminary.

Short title.

1. This Act may be called "The Bengal Embankment Act, 1873:"

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[a] See, now, Bengal Act No. V of 1876.

[b] Nothing in this Act applies to any canal or flood embankment, as defined in Bengal Act No. III of 1876: see section 4 of the latter Act.

Extent.

It extends to the whole of the territories subject to the Lieutenant-Governor of Bengal, except the Province of Orissa and the Sundarbans as defined under the provisions of clause 2, section 13, Regulation III of 1828;[a]

Commencement.

And it shall come into force on the day of the passing thereof.

Repeal of Acts.

2. From such day Act No. XXXII of 1855 (*relating to embankments*) and Bengal Act No. VII of 1866 (*to make better provision for the acquisition of land for embankments and other matters relating thereto*) shall, except so far as relates to the Province of Orissa and the said Sundarbans, be repealed.

Interpretation.

3. The following words shall, for the purposes of this Act, have the meanings hereby declared, save where, from the context, a contrary intention appears:—

"Estate."

"estate" means—

(1)—any land or share in land subject to the payment to Government of an annual sum, in respect of which the name of a proprietor is entered on the register known as the general register of all revenue-paying estates, or in respect of which a separate account may, in pursuance of section 10 or section 11 of Act XI of 1859,[b] have been opened;

(2)—any land entered in the register of revenue-free tenures;

(3)—any land acquired under any rules issued by or under authority of Government for the sale, grant or clearance of waste-lands:

"Embankment."

"embankment" includes every bank, dam, wall and dyke, made or used for excluding water from, or for retaining water upon, any land, and every sluice, spur, groyne, training wall or other work annexed to or portion of any such embankment, and every bank, dam, dyke, wall, groyne or spur made or erected for the protection of any such embankment or of any land from erosion or overflow by or of rivers, tides, waves or waters; and also all buildings intended for purposes of inspection and supervision:

"Watercourse."

"watercourse" includes a line of drainage, weir, culvert, pipe or other channel for the passage of water, whether natural or artificial:

"Zamíndár."

"zamíndár" means all or any of the holders of an estate; and where two or more zamíndárs are jointly holders thereof, they shall be jointly and severally liable under this Act:

"Tenure."

"tenure" includes all interests in land other than estates as above defined, held permanently at a fixed rental or held lákhiráj:

"Proprietor."

"proprietor" means the holder of a tenure:

"Public embankment."

"public embankment" means an embankment maintained by the officers of Government:

"Public watercourse."

"public watercourse" means any watercourse under the charge of the officers of Government:

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[a] See *supra*, p. 241.

[b] See *supra*, p. 393.

"the engineer" means the district engineer or any engineer specially appointed by the Lieutenant-Governor of Bengal to perform the functions of an engineer under this Act: "The engineer."

"collector" means any Collector, Deputy Collector or other Revenue-officer in independent charge of any district or portion of a district, or specially appointed by the Lieutenant-Governor of Bengal to perform the functions of a Collector under this Act: "Collector."

"district" means the portion of territory throughout which any person vested with the powers of a Collector is authorized to exercise such powers: "District."

"land" includes interests in land and benefits arising out of land and things attached to the earth or permanently fastened to anything attached to the earth. "Land."

PART II.

Powers of Collector and Procedure thereon.

4. Under the conditions and in the manner hereinafter provided— Powers of Collector.

(1) the Collector may cause any embankment which connects public embankments, or forms, by junction with them, part of a line of embankments, or any embankment or watercourse which is necessary for the protection or drainage of the neighbouring country, to be taken charge of and maintained by the officers of Government; Power to take charge of embankments.

(2) the Collector may cause to be removed or altered any embankment which endangers the stability of a public embankment, or any obstruction of any kind which interferes with the general drainage of any tract of land; Power to remove embankments and obstructions.

(3) the Collector may, when necessary, change the line of or lengthen any public embankment; or make a new embankment in the place of or renew any public embankment; or make an embankment in any place in which he may deem such embankment required for the protection of any lands, or for the improvement of any watercourse; or make a sluice in any public embankment; Power to change line of embankment.

(4) the Collector may construct any sluice or watercourse, or effect any alteration in any public watercourse, when such construction or alteration may be required for the improvement of the health, or for the protection, of any village or cultivable land; Power to improve drainage.

(5) the Collector may call upon the person in charge of any road which interferes with the drainage of any tract of land to alter such road, or to construct any watercourse under or through such road. Power to alter roads and construct watercourses.

In the event of such person failing to comply with such requisition in such manner and within such time as the Collector shall prescribe, the said Collector may cause the road to be altered, or a watercourse to be constructed.

The expenses of such alteration or construction shall be borne by the person

in charge of the said road, so far as the same shall have been incurred on account of insufficient provision having been made at the time of the construction of the said road for the natural drainage then existing.

Applications for sluices to be made to Collector.

(6.) If any landholder, farmer or cultivator be desirous of having a sluice made in any public embankment for the purpose of drainage or irrigation, he shall make an application in writing to the Collector of the district in which such embankment is situate.

The application shall contain such particulars of the land to be drained or irrigated as may enable the Collector to judge of the advantage which may be derived from the work.

The Collector shall decide whether it is expedient that such application shall be granted.

Application for new embankment or drainage to be made to Collector.

(7.) Whenever any person is desirous that any new embankment be erected, or that any new watercourse be made, or that any watercourse be obstructed or diverted, if such work is likely to interfere with, counteract or impede, any public embankment or any public watercourse, he shall apply to the Collector, and at the time of making such application shall deposit with him a statement of the proposed work.

The Collector shall decide whether it is expedient that such application shall be granted.

Procedure.

5. When it shall appear expedient to the Collector that any of the works specified in the last preceding section should be executed, he shall cause to be prepared plans, specifications and estimates of the proposed works, together with a copy of the survey-map shewing the boundaries of the villages of the various estates likely to be affected by the said works, and he shall cause a proclamation to be issued giving notice of his intention to cause such works to be executed.

Such proclamation shall be in the form, and state the particulars, mentioned in schedule (A) annexed to this Act; and the plans, specifications and estimates of the proposed works, together with a copy of the survey-map as aforesaid, shall be kept at the office of the Collector and shall be open to the inspection of any interested person, who shall be allowed to take copies thereof.

The Collector shall not commence any of such works until final order made in respect thereto under the provisions of sections 8, 59 and 60 of this Act.

Publication of proclamation.

6. Every such proclamation shall be published by affixing the same at the kachahrí of the Collector, and in the manner provided in the third clause of section 57.

Time of publication.

7. Every such proclamation shall be published not less than thirty days before the day appointed for hearing the persons interested.

Hearing of

8. The Collector shall, on the day appointed for the hearing, or on any

subsequent day to which the hearing shall be adjourned, hear the objections of any persons who may appear, and, after recording any evidence which they may adduce, shall pass an order in regard to the execution of the proposed works. objections to works.

Notice of such order shall be served on such persons as may have appeared in pursuance of the proclamation.

9. If the lands which are likely to be affected by any such proposed works are situated within the limits of different districts, the Collector of any district within which any portion of such lands is situated shall apply to the Commissioner of the division for authority to proceed in such matter; and the Commissioner of the division, if all the lands are situated within his division, may give authority to such Collector, or to any other Collector within whose district any portion of such lands is situated, to proceed in respect of all the lands likely to be affected by such works. Authority to take proceedings where lands likely to be affected by works are— in different districts;

If the districts within which the lands likely to be affected by any such works are situated are subject to the Commissioners of different divisions, the Collector shall apply to the Commissioner of the division within which his district is situated, and such Commissioner may, with the concurrence of the Commissioner to whom the other district is subject, give authority to proceed in such matter. or different divisions.

10. All the powers vested in the Collector by section 4 of this Act may be exercised by the engineer in cases referred to him by the Collector, subject to the general orders of the Collector. Collector may delegate certain powers to engineer.

PART III.

Procedure in Cases of imminent Danger to Life or Property.

11. Whenever the Collector shall be of opinion that the proceedings commenced by notice under sections 5 to 8 of this Act would cause delay in the exercise of any of the powers conferred upon him by clauses 2, 3 and 4 of section 4, likely to be attended with grave and imminent danger to life or property, it shall be lawful for him forthwith to commence to exercise such powers: Proceedings in emergencies.

Provided that he shall forthwith cause to be prepared the plans, specifications and estimates of the proposed works, together with a copy of the survey-map as provided in section 5, and shall cause a proclamation to be issued as provided in that section giving notice that the work mentioned therein has already been commenced, and thereupon such proceedings and inquiries shall be had as in and by Part II of this Act are directed.

12. Whenever any land, or earth from any land, the property of any person, is required for the purposes of any works commenced in pursuance of the provisions of the last preceding section, or for the purposes of section 18 in Power to take possession of land.

cases where the Collector shall be of opinion that proceedings for the acquisition of such land according to the provisions hereinafter contained in section 25, would cause delay as aforesaid, the Collector shall cause a proclamation to be issued in form in schedule (B) annexed to this Act, giving notice thereof at convenient places in the locality in which such land is situated, and he may at the same time take possession of the same for the said purposes.

Compensation for standing crops and trees.

13. The Collector shall ascertain and record the nature and estimated value of the crops and trees (if any) standing on such land, and shall offer adequate compensation to the persons interested.

If such offer is not accepted, the value of such crops and trees shall be allowed for in awarding compensation for the land under the provisions of section 29.

Power to engineer to act in absence of Collector.

14. The Collector may depute to the engineer the powers described in sections 11, 12 and 13, subject to his own general orders, and in that case when the Collector is not present the engineer may, if he shall be of opinion that delay for the purpose of obtaining the orders of the Collector would be attended with grave and imminent danger to life or property, exercise the powers conferred on him by the Collector.

Power to restore embankments, &c.

15. Whenever, upon an inquiry had under the provisions of this Part, it has been determined in the final order to be passed on such inquiry that anything done by the Collector, or by the engineer under the last preceding section, was unnecessary, the land or the embankments or drainage shall, so far as any alteration thereof shall appear to be unnecessary, be at the expense of the Government restored as nearly as possible to the state in which they were when the Collector commenced to act under the provisions of this Part; and any person who shall have sustained loss, damage or injury by the execution of such works, shall receive compensation from the Government to be assessed according to the provisions contained in Part V of this Act.

Section 9 applied.

16. The provisions of section 9 shall be applicable to proceedings taken under this Part.

PART IV.

Powers of Engineer.

Control of engineer.

17. The power conferred on the engineer under this Part shall be exercised subject to the general control and orders of the Collector.

Power to make repairs.

18. The engineer may make any repairs in, and may do all acts necessary and proper for the maintenance of, any public embankment, public watercourse or other work executed or taken charge of under the provisions of this Act, or of any of the Acts repealed by this Act.

Power to alter railroads or construct watercourses.

19. The engineer may call upon the manager or other person in charge of any railroad which interferes with the drainage of any tract of land, to alter such railroad or to construct any watercourse under or through such railroad.

In the event of such person failing to comply with such requisition in such manner and within such time as the engineer shall prescribe, the engineer may thereupon, with the previous sanction of the Lieutenant-Governor, cause the said railroad to be altered, or a watercourse to be constructed in such manner as the Lieutenant-Governor shall direct.

The expenses of such alteration or construction shall be borne by the said manager or other person in charge of the said railroad, so far as the same shall have been incurred on account of insufficient provision having been made at the time of the construction of the said railroad for the natural drainage then existing.

Power to make temporary roadway, watercourse or dam.

20. Whenever any person is desirous that a temporary roadway should be made over, or that a temporary watercourse should be made through, any public embankment, or that a temporary dam should be constructed in any embanked river or public watercourse, he shall apply to the engineer, who shall communicate the application to the Collector, and the Collector shall pass such orders thereon as he shall think fit.

If the proposed work is to be executed by an officer of Government, the applicant, before the commencement of the work, shall deposit the amount estimated by the engineer to be necessary to defray the expenses of, and incidental to, making and removing such roadway, or of, and incidental to, making and closing or removing such watercourse or dam.

If the amount deposited is found insufficient, the engineer shall recover from the said applicant the further amount required, and if it exceeds the amount required, such excess shall be returned to the said applicant.

Power to remove houses.

21. Whenever the engineer shall be of opinion that the removal of any trees, houses, huts or other buildings, situated between a public embankment and the river, is necessary, he shall make a report to that effect, accompanied by a detailed statement of the trees, houses, huts or other buildings to be removed, to the Collector of the district in whose jurisdiction the land on which such trees, houses, huts or other buildings stand is situated; and the Collector shall report the same to the Lieutenant-Governor in order that proceedings may be taken, in accordance with the provisions of "The Land Acquisition Act X of 1870," or other law for the time being for the acquisition of land for public purposes, for obtaining possession of such trees, houses, huts and buildings:

Provided always, that in case the Collector be of opinion that the delay

required by such proceedings is likely to be attended with grave and imminent danger to life or property, it shall be lawful for him forthwith to cause such trees, houses, huts or buildings to be removed, and in such case the compensation due therefor shall be ascertained and paid in the manner hereinafter provided.

Sluices to be opened or shut under authority of engineer.

22. Sluices constructed in any public embankment shall be opened or shut only by or with the general or special permission of the officer in the immediate charge of the embankment, under such orders, either general or special, as he may receive from the engineer.

Power to appropriate land or earth for embanked towpath.

23. In any case where an embanked towpath has heretofore been maintained by Government alongside any canal, river, khál or channel, the engineer shall be entitled to appropriate without payment, as heretofore, land or earth for the maintenance, repair or reconstruction of such embanked towpath.

If in any case the engineer shall consider it necessary for the purposes of towing to enlarge an existing towpath, or to construct a new towpath, proceedings shall be taken in accordance with the subsequent provisions of this Act relating thereto.

Power to enter and survey land, &c.

24. It shall be lawful for the engineer, or any person whom he may authorize in that behalf, in order to carry out any of the purposes of this Act—

to enter upon, and survey, and take levels of any land;

to dig or bore into the sub-soil;

to do all other acts necessary to ascertain whether the land is adapted to the purpose projected by such engineer; or by the Collector;

Power to mark out line.

to set out the boundaries of the land proposed to be taken, and the intended line of the work proposed to be made thereon;

to mark such levels, boundaries and line, by placing marks and cutting trenches;

Power to clear land.

and, where otherwise the survey cannot be completed or the levels taken, to cut down and clear away any part of any standing crop, fence or jungle:

Previous notice of entry.

Provided that no person shall enter into any building or upon any enclosed court or garden attached to a dwelling-house (unless with the consent of the occupier thereof) without previously giving such occupier at least seven days' notice in writing of his intention to do so.

Payment for damage.

The engineer or other person so authorized shall at the time of such entry pay or tender payment for all necessary damage to be done as aforesaid, and, in case of dispute as to the sufficiency of the amount so paid or tendered, he shall at once refer the dispute to the decision of the Collector, and such decision shall be final.

PART V.

Acquisition of Lands.

Acquisition of land.

25. Whenever in the course of proceedings under this Act, save in those cases in which the Collector has proceeded under the provisions of Part III, it appears that land is required for any of the purposes thereof, proceedings shall be forthwith taken for the acquisition of such land in accordance with the provisions of the Land Acquisition Act X of 1870, or any other law for the time being for the acquisition of lands for public purposes.

When land taken, proclamation to be published.

26. Whenever any land shall have been taken or used under the provisions of Part III, the Collector shall cause a proclamation to be issued in form in schedule (C) annexed to this Act at convenient places on or near the land so taken, stating that Government has taken possession of the land, and that claims to compensation for all interests in such land shall be made to him.

Thereupon the land shall vest absolutely in the Government free from all encumbrances, subject however to the claims for compensation to be ascertained in manner as in this Part is provided.

Contents of proclamation.

27. Such proclamation shall state the particulars of the land so taken, and shall require all persons interested in the land to appear personally or by agent before the Collector at a time and place therein mentioned (such time not being earlier than fifteen days after the date of issuing the proclamation), and to state the nature of their respective interests in the land, and the amount and particulars of their claims to compensation for such interest.

Further notice to be served on certain parties.

28. The Collector shall also serve notice to the same effect on the occupier (if any) of such land, and on all such persons known or believed to be interested therein, or to be entitled to act for persons so interested, as reside, or have agents authorized to receive service on their behalf, within the revenue-district in which the land is situate.

Proceedings after notice.

29. After service of such notice proceedings shall be had and taken to determine the amount of compensation to be payable in respect of such land, in accordance with the provisions of the Land Acquisition Act X of 1870, or any other law for the time being in force for the acquisition of land for public purposes.

Compensation for consequential damage.

30. Whenever any land other than land required or taken by the engineer, or any right of fishery, right of drainage, right of the use of water or other right or property shall have been injuriously affected by the due exercise of the powers or provisions of this Act the person in whom such property or right is vested may prefer a claim by petition to the Collector for compensation.

Application to be made within two years.

31. No claim shall be entertained which shall be made later than two years next after the completion of the work by which such right is injuriously affected.

Procedure for such compensation.

32. When any such claim is made, proceedings shall be taken in view to determine the amount of compensation, if any, which should be made and the person to whom the same should be payable, in accordance with the provisions of the Land Acquisition Act X of 1870, or any other law for the time being in force for the acquisition of land for public purposes.

Matters to be considered in determining compensation.

33. In determining the amount of compensation to be awarded in such cases, the Judge and assessors shall take into consideration—

First, the market-value of the property or right injuriously affected at the time of acquiring the land;

Secondly, the damage sustained by the claimant by reason of such acquisition injuriously affecting the property or right;

Thirdly, the consequent diminution of the market-value of the property or right injuriously affected at the time of acquiring the land.

Matters not to be considered in determining compensation.

But the Judge or assessors shall not take into consideration—

First, the degree of urgency which has led to the acquisition;

Secondly, any damage sustained by the claimant, which, if caused by a private person, would not in any suit instituted against such person justify a decree for damages.

Land, &c., taken possession of to vest in Government.

34. All buildings, land, earth, pathways, sluices, gates, bermes, hedges, belonging to, or forming part of, any embankment or watercourse, of which charge has been or may hereafter be taken by the officers of Government, shall vest in the Government, and shall be held on behalf of the Government in respect of the embankments mentioned in schedule (D) annexed to this Act, and in respect of other works on behalf of the persons interested in the lands to be protected or benefited by such embankment or watercourse, subject to the provisions of section 63; and all moneys received on account of such lands shall be payable to the engineer and credited to the cost of the construction and maintenance of such works respectively.

PART VI.

Cost of Works, Proceedings, &c.

1. Ascertainment thereof.

Embankments in schedule D).

35. The provisions in this Part contained shall not apply to any of the embankments mentioned in schedule (D) to this Act annexed, save so far as any works or repairs are executed therein or in relation thereto under the provisions of section 4, clause 7, or section 20 of this Act; or to any of such

embankments as may hereafter be erected for the protection of lands which at the time of the passing of this Act are protected by the embankments mentioned in the aforesaid schedule, save so far as the erection of such embankments may protect lands not protected by the embankments mentioned in the aforesaid schedule.

All sums payable in respect of any works or repairs executed therein, or in relation to the embankments mentioned in the aforesaid schedule except under the provisions of section 4, clause 7, or section 20, of this Act, shall be paid by the Government.

Exclusion from schedule.

If at any time after the passing of this Act, on inquiry made by the Collector as far as possible in accordance with the provisions of Part II of this Act, it shall be found that it is unnecessary for the public interests to retain any embankment mentioned in schedule (D), the Lieutenant-Governor may direct that the same shall be no longer included in the said schedule:

Provided that the Lieutenant-Governor may restore the same to the said schedule if, on any subsequent inquiry similarly conducted, it shall appear to the Lieutenant-Governor that it is necessary so to do.

Addition to schedule.

The Lieutenant-Governor may at any time after the passing of this Act, by a notification published in the *Calcutta Gazette*, direct that any embankment not mentioned in schedule (D) be included in the said schedule, and the provisions of this section shall apply to such embankment.

Contribution towards maintenance of certain embankments continued.

36. In accordance with the custom heretofore in force in respect of the parganas entered in schedule (E) annexed to this Act, the Government shall continue to contribute annually the sum noted therein for each pargana respectively towards the maintenance of the embankments thereof.

If such embankments declared public, Collector to keep separate account.

If the embankments maintained in any such pargana shall at any time be declared to be public embankments under the provisions of section 4, the Collector shall, from the date of such declaration, keep a separate account for such pargana, in which the aforesaid sum shall be credited at the commencement of each financial year.

The unexpended balance at the close of each year shall be carried on to the credit of the account in the next succeeding year, and shall be available for the cost of repairing or erecting all the embankments which it may be deemed necessary to maintain in such pargana.

Contribution may be discontinued if it be found unnecessary for public interest to maintain embankments.

If at any time after the passing of this Act, on an inquiry made by the Collector as far as possible in accordance with the provisions of Part II, it shall be found that is unnecessary for the public interest to retain any embankment in either of the said parganas, the Lieutenant-Governor may direct that such contribution shall cease in respect of such pargana.

Provided that such contribution shall again be made in accordance with the provisions hereinbefore contained, if it shall appear to the Lieutenant-Governor, on the report of an inquiry similarly conducted, that the maintenance of any embankment in such pargana has again become necessary for the public interest.

Estimates and specifications to be pre-

37. Specifications of any works or repairs to be executed under the provisions of this Act, and estimates of the expenses to be incurred therein or relating thereto, including such proportion of establishment-charges as the Lieutenant-Governor shall direct, shall be prepared by the engineer as soon after the month of October in each year as may be practicable.

And whenever it appears that the actual expenses to be incurred will exceed the amount mentioned in the said estimates by one-tenth, the engineer shall forthwith prepare further estimates, and, if necessary, further specifications.

Copies of all specifications and estimates shall be transmitted to the office of the Collector, together with vernacular translations thereof, or such abstracts thereof as the Lieutenant-Governor may from time to time direct, and may be examined by any person interested in such works or repairs.

Notice of the receipt of specifications and estimates shall be served for all estates chargeable for, or likely to be affected by, the said works or repairs; and should any objection in regard to the amount of such expenses be preferred by any such person within a period of one month from the date of such notice, the Collector shall pass such orders as may appear to him reasonable and proper.

Such order shall be subject in any case to an appeal by the person making such objection to the Commissioner of division whose decision shall be final.

Preparation and settlement of accounts.

38. The accounts of the actual expense incurred in executing any works or repairs shall be prepared as soon as possible after the completion thereof.

The engineer shall sign a certificate stating the true amount of all such expenses, and the names of the estates chargeable for, and of the estates and villages affected by, the said works and repairs.

Copies of the said accounts and certificates shall be forwarded to the office of the Collector and may be there examined by any person interested.

Notice of the receipt thereof shall be served for the said estates and villages, and such others as in the opinion of the Collector are liable to contribute to the payment of the said amount; and if, within thirty days from the service of such notice, any interested person shall object to the accounts on the ground, either that the work charged for has not been performed, or that the whole sum charged has not been expended, or that the rates of charge are higher than those mentioned in the estimates, the Collector shall inquire into such

objection, and may pass any order thereon, subject in any case to an appeal by the objector to the Commissioner of division whose decision shall be final.

Total sum payable.

39. The Collector shall add to the amount appearing in the said certificate all sums which have been paid or have become payable in respect of compensation, costs and expenses under, and incidental to, any proceedings taken or directed to be taken under Parts II and V of this Act, including costs of all surveys and plans.

He shall thereupon make an order specifying the total sum found payable, and in respect of works done under section 4, clause 5, and sections 19 and 20, the persons by whom, or in respect of other works the estates in respect of which, the same is payable to him.

If the order is made in respect of work done under section 4, clause 5, and sections 19 and 20, the same shall forthwith be served upon the party or parties liable to pay; otherwise the Collector shall proceed under the provisions in the next chapter contained.

Interest.

Interest may be charged upon any sum paid as compensation from the date of payment thereof at such rate, not exceeding 5 per centum per annum, as the Lieutenant-Governor may direct.

Parties liable to pay.

40. The said total sum, save so far as is otherwise provided in this Act, shall be paid to the Collector by the zamíndárs of the estates in which are situated the lands benefited or protected by the repairs or works executed:

Provided that, where any specific sum has hitherto been annually demanded in respect of any embankment not included in schedule (D), and when the said embankment is at the time of this Act coming into operation being maintained by Government, then such special payments shall, after the passing of this Act, thenceforth cease and determine.

Every zamíndár, who is liable under this rule for the payment of the whole or a portion of such total sum, shall be entitled to recover from the proprietor of every tenure which is declared to be a part of his estate, the sum apportioned to such tenure by the Collector, under the provisions of section 45.

And similarly, every proprietor shall be entitled to recover from the proprietor of any subordinate tenure which is declared to be a part of his tenure, the sum apportioned to such subordinate tenure by the Collector, under the said provisions.

2. Apportionment thereof.

Notice to be given before apportionment.

41. So soon as the total sum payable as aforesaid has been ascertained, the Collector shall cause a notice to be served for every one of the said estates and villages mentioned in section 38.

Every such notice shall specify the estates and villages aforesaid, and that an inquiry will be held at a day and place therein named for the purpose of apportioning amongst the zamíndárs and proprietors the said total sum, with interest and the costs of apportionment.

Mode of inquiry as to proportion chargeable to each estate.

42. On the day fixed in the said notice, which shall not be less than thirty days later than the date of any service of such notice, the Collector shall proceed to make the said inquiry.

In making this inquiry he shall receive such evidence as may be tendered by, or on behalf of, the said zamíndárs and proprietors, and by, or on behalf of, any other persons who may claim to be interested therein.

Names of proprietors.

43. In any such inquiry the Collector shall take down in writing the names of all persons who may claim, or who may be alleged by any party interested, to be proprietors of tenures within any of the estates mentioned in such notice.

In default of appearance of any such person, the Collector shall issue and serve a notice calling on him to appear at a date and place therein mentioned, and to shew cause against being included in the order of apportionment to be made therein, and shall adjourn the inquiry till such date.

Apportionment amongst zamíndárs.

44. At such or any subsequently adjourned inquiry, the Collector, if there be only one estate liable, shall charge the zamíndár thereof with the total amount payable; and if there be two or more estates, he shall apportion the same amongst the zamíndárs thereof rateably in proportion to the respective benefits derived by such estates from such works or repairs; or in proportion to the areas of the lands benefited or protected thereby, and comprised within such estates respectively; or with the sanction of the Local Government in proportion to the amount of revenue respectively payable for such estates, if, before the passing of this Act, such proportion has been usually adopted:

Provided that the said total amount payable in respect of the embankments on the right bank of the river Gandak shall be chargeable, in accordance with the custom in force for such estates, to the zamíndárs of all the estates situated in the district of Sáran, in proportion to the amount of revenue respectively payable for such estates:

Proviso in respect of parganas in schedule (E).

Provided also that the sum standing to the credit of a pargana in schedule (E) in the account kept by the Collector, at the time when the total amount payable is fixed under the provisions of section 39, shall be deducted from the total amount payable in respect of such portion of any embankment as is situated in such pargana; and that the zamíndárs of the estates situated therein shall be charged only with the balance of the amount (if any) which may remain payable.

Apportionment amongst proprietors.

45. The Collector shall, in like manner, apportion, except in respect of the said Gandak embankments, the amount payable in respect of each estate amongst all the tenures therein rateably in the proportion of benefit so received or area so benefited or protected, first deducting therefrom such sum as, on the like principle of proportion, is payable in respect of such portion of the estate as is not included within any tenure.

Apportionment in case of lands held free of rent, not being estates on register of revenue-free tenures.

46. All lands held without payment of rent not being estates entered in the register of revenue-free tenures shall, for the purposes of this Act, be deemed to form a part of the tenure within the local boundaries of which they are included; and if they are not included within the local boundaries of any tenure, then to be a part of the estate within the local boundaries of which they are included; and if they are not included within the local boundaries of any estate, then to be a part of such conterminous estate as the Collector in whose district such conterminous estate is situated shall, by an order under his seal and signature, declare.

Amount apportioned payable by instalments.

47. The amount apportioned to any estate or tenure shall be payable in equal instalments on such days as the Lieutenant-Governor shall direct, provided that no instalment shall exceed four annas for every acre of land in respect of which the same is payable, and that not more than four instalments shall be payable in any one year.

Interest.

Interest shall be charged on the unpaid portion of the said amount from the date of the same becoming due until payment thereof, at such rate, not exceeding five per centum per annum, as the Lieutenant-Governor shall from time to time determine.

Final order of apportionment.

48. On the completion of the apportionment the Collector shall make an order specifying the estates and tenures, and the several sums payable in respect thereof, the instalments of such sums, and the dates on which the same are payable.

3. Recovery thereof.

Orders for payment.

49. The Collector shall, within thirty days from the final order of apportionment, make and serve for every estate therein mentioned an order, stating the amount with interest due in respect thereof, and that the same is payable to him, and the date or dates at which such amount or instalments thereof shall become payable to him.

Recovery from zamíndárs.

50. If such sum or any instalment thereof be not, pursuant to the said order, paid, the same with interest shall be recoverable as arrears of a demand under the provisions of Bengal Act VII of 1868 [a] (*to make further provision for*

[a] See *supra*, p. 582.

the recovery of arrears of land-revenue and public demands recoverable as arrears of land-revenue).

Recovery by zamíndárs or proprietors.

51. Every zamíndár or proprietor to whom any sum or instalment thereof is payable under the said order, may recover the same with interest as aforesaid in the manner provided for the recovery of arrears of rent in respect of patní tenures by the provisions of clauses 2 and 3 of section 8, sections 9, 10, 14, 15, and clauses 1, 2 and 3 of section 17 of Regulation VIII of 1819,[a] as amended by Bengal Act VIII of 1865[b]; provided that the right or interest of any person holding from the proprietor of such tenure shall not be affected by any sale held under these provisions.

PART VII.

Miscellaneous.

Penalty for obstructing persons in exercise of powers.

52. Whoever wilfully obstructs any person duly authorized under this Act in removing or levelling any embankment, house, hut or other building, or in the lawful exercise of any of the powers in this Act conferred, shall, in case such obstruction shall not amount to an offence within the provisions of the Indian Penal Code, be liable to imprisonment of either description for any period not exceeding six months at the discretion of the Magistrate, or to fine not exceeding two hundred rupees, commutable, if not paid, to a period of imprisonment not exceeding six months.

Penalty on unauthorized interference with embankments or drainage.

53. Every person who, without the previous permission of the engineer, shall erect, or cause or wilfully permit to be erected, any new embankment, or shall obstruct or divert, or cause or wilfully permit to be obstructed or diverted, any watercourse, if such embankment or watercourse is likely to interfere with, counteract or impede, any public embankment or any public watercourse, or shall abet any such act, shall be liable on conviction to a fine not exceeding five hundred rupees, or, in default of payment, to imprisonment of either description for a period not exceeding six months.

Penalties for injuring works.

54. No person shall without due authority cut through, or attempt to cut through, any public embankment, or destroy or attempt to destroy any such embankment, or open or shut, or obstruct, any sluice in any such embankment or any public watercourse; and every person who shall commit any breach of the provisions of this section shall, in case the act shall not amount to mischief within the meaning of the Indian Penal Code, be liable to imprisonment of either description for a term not exceeding one month, or to a fine not exceeding two hundred rupees.

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[a] See *supra*, p. 158. [b] See *supra*, p. 507.

Penalties for diverting rivers or permitting cattle to graze on embankments.

55. Every person who shall make any dam or other obstruction for the purpose of diverting or opposing the current of a river wherein or whereon there are public embankments, without the permission of the officer in immediate charge of the embankments, or shall refuse or neglect to remove any such dam or obstruction when so required by the engineer, or shall cut or otherwise alter the banks of any embanked river, or shall remove the earth from any public embankment, or shall drive stakes into it, or by any other wilful act destroy or diminish the efficiency of such embankment; and every person who shall cause or knowingly and wilfully permit any cattle to graze upon any such embankment, or shall tether, or cause or wilfully permit any cattle to be tethered, upon any such embankment, or who shall root up any grass or other vegetation growing on any such embankment, shall be liable to imprisonment of either description for a term not exceeding six months, or to a fine not exceeding two hundred rupees.

Obstructions to be removed and damage repaired.

56. Whenever any person is convicted of an offence under either of the three last preceding sections, the convicting Magistrate may order that he shall remove the embankment or obstruction, or repair the damage, in respect of which the conviction is held, within a period to be fixed in such order.

If such person neglects or refuses to obey such order within the fixed period, the engineer may remove such embankment or obstruction, or repair such damage, and the cost of such removal or repair shall be levied from such person in addition to any other penalty in the manner provided in section 307 of the Code of Criminal Procedure.

Service.

57. Every proclamation, notice or order in and by this Act required to be served may, unless when otherwise provided, be served—

(1) by delivering a copy of the same to the person to whom it is directed, or on failure of such service by posting a copy on some conspicuous part of the house in which the said person resides, or by delivering a copy to any agent authorized to appear generally for the person to whom such proclamation, notice or order is directed; or

(2) by sending a registered letter containing a copy of such proclamation, notice or order directed to the said person at his usual place of abode, or at the place where he may be known to reside; or

(3) by posting a copy of the proclamation, notice or order at the mál-kachahrí of the estate, village or tenure to which the same relates; or if no such mál-kachahrí be found, on some conspicuous place on the said estate, village or tenure, and by delivering, in the case of estates paying their annual revenue by four instalments, another copy thereof to the agent who shall have paid an instalment of revenue next before or after the preparation of such proclamation, notice or order.

In all cases where two or more persons are holders of an estate, village or tenure, service under this clause shall be deemed to be good and sufficient service on each and all of such persons.

No proceedings to be impeached for want of form.

58. No proceedings under this Act shall be impeached or affected by reason of any mistake in the name of any person thereby rendered liable to pay any sum of money, or in the description of any estate or tenure or land in respect of which he is rendered liable to pay; provided the directions of this Act be in substance and effect complied with; and no proceedings under this Act shall for want of form be quashed or set aside in any Court of Justice.

Appeal from orders made on objection.

59. Every order passed by the Collector in respect to applications under section 4, clauses 6 and 7, or under sections 8, 39 and 48, shall be appealable to the Commissioner of revenue, and every order of the Commissioner, except when otherwise directed by this Act, shall be appealable to the Board of Revenue, but no appeal shall lie under this section against any order unless the same be presented within one month from the date of the order.

Orders to be final.

60. Subject to the right of appeal above-mentioned and to the order and control of Government, every order passed under the provisions aforesaid shall be final, and shall not be open to revision by any civil Court.

Powers on inquiry and appeal.

61. In any inquiry or appeal held under this Act, the Collector and the Commissioner shall respectively have the same powers as those conferred on Courts by the Code of Civil Procedure, of summoning and examining witnesses and compelling the production of documents.

General control of Commissioner and Government.

62. All the powers of a Collector under this Act shall be exercised under the general control and orders of the Commissioner of the division, and all the powers of Collectors and Commissioners shall be exercised subject to the general control and orders of the Board of Revenue and of the Government.

Disposal of lands no longer required for embankments.

63. Whenever the maintenance of any public embankment, or the retention of any land appropriated to the purposes thereof, may no longer be required, and the permanent relinquishment of the same may be deemed expedient, such land shall be conveyed by the Collector to the proprietor of the land, within the limits of which it may be situated, on payment of the compensation, if any, which was paid for such land when the same was taken for the purpose of the embankment.

If the proprietor of such lands refuse or neglect to pay such price within a reasonable time after demand, the same shall be sold by the Collector for such price as he can obtain for the same.

All sums obtained for the conveyance of lands under the provisions of this section shall, after the payment of all expenses incurred on account of the same, be applied to the payment of the cost of any new embankment or drainage-works affecting the said lands, and in such case the residue only of

the cost of such new works shall be charged upon the zamíndárs of estates benefited as hereinbefore provided.

64. A Collector may delegate any of his powers under this Act to a Deputy Collector, but from any order passed by a Deputy Collector to whom powers have been so delegated, an appeal shall lie to the Collector if presented within thirty days of the date of the order. Collector may delegate powers to Deputy Collector.

65. All offences created by this Act shall be enquired into and tried by a Magistrate of the first or second class. Jurisdiction.

66. Nothing in this Act shall affect the provisions of "The Hugli and Burdwan Drainage Act, 1871." Saving of Bengal Act V of 1871.

SCHEDULE OF FORMS.

SCHEDULE A—(*referred to in section 5*).

All persons interested are hereby required to take notice that it is my intention to

[*here state the nature of the work to be undertaken*] for the purpose of [*state the purpose*]. For the execution of this work the under-mentioned land will be required to be taken up :—

1	2	3
Pargana in which land is situated.	Name of village in which land is situated.	Area of land.

Plans, specifications and estimates of the proposed work, together with a copy of the survey-map shewing the boundaries of the villages of the various estates likely to be affected by the said work, are open for inspection by any interested person at this office who is allowed to take copies thereof.

The total probable cost of such work will be the sum of rupees , and the rate per acre of the area benefited or protected by the said work is estimated at rupees .

The following estates and villages will probably be affected by the work proposed [*here set out a list of the estates and villages*].

Any person interested and desirous of shewing cause against the execution of the works specified, is hereby required to appear before the Collector for that purpose on the day of

The day of

A. B.,
Collector of

SCHEDULE B—(*referred to in section 12*).

Notice is hereby given that, under the provisions of section 11 of the Bengal Embankment Act, 1873, the land hereunder specified has been taken up, and notice thereof has been given to the Collector of

1	2	3
Pargana in which land is situated.	Name of village in which land is situated.	Approximate boundaries and area of land.

The day of

A. B.,
Collector of

SCHEDULE C—(*referred to in section 26*).

All persons interested are required to take notice that, under the provisions of section 11 of the Bengal Embankment Act, 1873, the Collector of has taken possession on account of the Government of [*here state particulars of the land taken*], and that claims to compensation for all interests in such land must be made to the Collector. All persons having any such claims are therefore required to appear personally or by agent on day of at , and to state the nature of their respective interests in such land, and the amount and particulars of their claims to compensation for such interests.

The day of

A. B.,
Collector of

SCHEDULE D—(*referred to in sections 34, 35 and 40*).

No. 1.

Right Embankment on the Shilái River from Ishnagar to Kolá.

This is a continuous line of embankment on the right bank of the Shilái river, 3 miles 4,780 feet, more or less, in length. It commences at a masonry-pillar fixed in the ground in the village of Ishnagar of pargana Bogrí, and terminates at a masonry-pillar in the village of Kolá in the said pargana.

No. 2.

Right Embankment on the Shilái River from Chhota Rúprám to Naruyá.

This is a continuous line of embankment on the right bank of the Shilái river, 4 miles 770 feet, more or less, in length. It commences at a masonry-pillar fixed in the ground in the village of Chhota Rúprám of pargana Bogrí, and terminates at a masonry-pillar in the village of Naruyá in the said pargana.

No. 3.

Right Embankment on the Shilái River from Shrírámpur to Gánchiá.

This is a continuous line of embankment on the right bank of the Shilái river, 7 miles 2,686 feet, more or less, in length. It commences at a masonry-pillar fixed in the ground in the village of Shrírámpur of pargana Chandrakoná, and terminates at a masonry-pillar in the village of Gánchiá in the said pargana.

No. 4.

Left Embankment of the Shilái River from Karshi to Kalúkaḍí.

This is a continuous line of embankment on the left bank of the Shilái river, 6 miles 5,265 feet, more or less, in length. It commences at a masonry-pillar fixed in the ground in the village of Karshi of pargana Bogrí, and terminates at a masonry-pillar in the village of Kalúkaḍí in the said pargana.

No. 5.

Left Embankment of the Shilái River from Bághpotá to Rádháchak.

This is a continuous line of embankment on the left bank of the Shilái river, 20 miles 680 feet, more or less, in length. It commences at a masonry-pillar fixed in the ground in the village of Bághpotá of pargana Chandrakoná, and terminates at a masonry-pillar in the village of Rádháchak of pargana Baradá.

No. 6.

Left Embankment of the Dwárakeshwar and Sánkrá Rivers.

This is a continuous line of embankment on the left bank of the Dwárakeshwar and Sánkrá rivers, 5 miles 250 feet, more or less, in length. It commences at a masonry-pillar fixed in the ground in the village of Rámnagar of pargana Bayḍá, and terminates at a masonry-pillar in the village of Gásná of pargana Jáhánábád.

No. 7.

Right Embankment of the Dwárakeshwar and Jhumí Rivers.

This is a continuous line of embankment on the right bank of the Dwárakeshwar and Jhumí rivers, 6 miles 3,200 feet, more or less, in length. It commences at a masonry-pillar fixed in the ground in the village of Digḍí of pargana Bayḍá, and terminates at a masonry-pillar in the village of Soi of pargana Baradá.

No. 8.

Left Embankment on the Bakshí Khál.

This is a continuous line of embankment on the left bank of the Bakshe khál, 6 miles 4,330 feet, more or less, in length. It commences at a masonry-pillar fixed in the ground in the village of Bakshí of pargana Kharijí Mandalghát, and near the junction of the Rúpnáráyan river and Bakshí khál, and terminates at a masonry-pillar in the village of Gáighátí in the said pargana where the Gáighátí khál leaves the Dámodar.

No. 9.

Right Embankment on the Rúpnáráyan River.

This is a continuous line of embankment on the right bank of the river Rúpnáráyan, 29 miles 2,373 feet, more or less, in length. It commences at a masonry-pillar fixed in the ground distant 57 feet south-east by compass from the Máchnán masonry-sluice on the right bank of the Durbáchatí khál, in the village of Máchnán of pargana Mandalghát, and terminates at a masonry-pillar at the zero mile-post on the bank of the Tidal Canal, Reach I. This mile-post bears 500 feet south-west by compass from the Canal Toll-house, in the village of Kámálpur of pargana Mahishádal.

No. 10.

Right Embankment on the Páyrátungí Khál.

This is a continuous line of embankment on the right bank of the Páyrátungí khál, 4,410 feet, more or less, in length. It commences at a masonry-pillar fixed in the ground in the village of Páyrátungí of pargana Tamoluk, on the Rúpnáráyan embankment, right bank, and terminates at a masonry-pillar distant 187 feet west of a temple on the Tamoluk road, in the village of Bárapadubasan in the said pargana.

No. 11.

Left Embankment on the Páyrátungí Khál.

This is a continuous line of embankment on the left bank of the Páyrátungí khál, 4,370 feet, more or less, in length. It commences at a masonry-pillar in the ground in the village of Páyrátungí of pargana Tamoluk, and on the Rúpnáráyan embankment, right bank, and terminates at a masonry-pillar in the village of Bárapadubasan in the said pargana.

No. 12.

Right Embankment on the Gangákhálí Khál.

This is a continuous line of embankment on the right bank of the Gangákhálí khál, 3 miles 3,430 feet, more or less, in length. It commences at a masonry-pillar fixed in the ground in the village of Sudhápur of pargana Tamoluk, on the Rúpnáráyan embankment, right bank, and terminates at a masonry-pillar distant 675 feet east of the Raghunáthpur masonry-sluice, in the village of Sayadpur in the said pargana.

No. 13.

Left Embankment on the Gangákhálí Khál.

This is a continuous line of embankment on the left bank of the Gangákhálí khál, 3 miles 1,670 feet, more or less, in length. It commences at a masonry-pillar fixed in the ground in the village of Mahishdá of pargana Tamoluk, on the Rúpnáráyan embankment, right bank, and terminates at a masonry-pillar distant 170 feet north-east of the Raghunáthpur masonry-sluice on the right bank of the Gangákhálí khál, in the village of Raghunáthpur in the said pargana.

No. 14.

Right Embankment on the Shuádighí Khál.

This is a continuous line of embankment on the right bank of the Shuádighí khál, 2 miles 3,990 feet, more or less, in length. It commences at a masonry-pillar fixed in the ground in the village of Shuádighí of pargana Tamoluk, on the Rúpnáráyan embankment, right bank, and terminates at a masonry-pillar in the village of Jashomantapur in the said pargana.

No. 15.

Left Embankment on the Shuádighí Khál.

This is a continuous line of embankment on the left bank of the Shuádighí khál, 2 miles 1,690 feet, more or less, in length. It commences at a masonry-pillar fixed in the ground in the village of Shuádighí of pargana Tamoluk, on the Rúpnáráyan embankment, right bank, and terminates at a masonry-pillar in the village of Hoglá in the said pargana.

No. 16.

Right Embankment on the Durbáchatí Khál.

This is a continuous line of embankment on the right bank of the Durbáchatí khál, 1 mile 3,510 feet, more or less, in length. It commences at a masonry-pillar fixed in the ground at a distance of 550 feet north-north-east of the Bhúdaha factory chimney in the village of Bhúdaha of pargana Mandalghát, and terminates at a masonry-pillar distant 57 feet south-east of the Máchnán masonry-sluice in the village of Máchnán in the said pargana.

No. 17.

Mohankhálí Circuit-embankment.

This is a circuit-embankment 28 miles 3,258 feet, more or less, in length. It commences at a masonry-pillar fixed in the village of Kultikrí where the Mohankhálí river runs into the Rúpnáráyan river, and passing along the right bank of the Mohankhálí river through the villages of Jothghanashyám, Sítápur, Mánuyá to Basantapur, where the Mohankhálí and Durbáchatí rivers bifurcate, thence skirting the left bank of the Durbáchatí river it passes through the villages of Shápur, Basáripur, and Brahmagṛiha to Káchḍa, thence skirting the Rúpnáráyan, right bank, it passes through the village of Dudhkomrá and Bághchená, and terminates at the masonry-pillar aforesaid.

No. 18.

Párná Circuit-embankment.

This is a circuit-embankment 9 miles 3,640 feet, more or less, in length. It commences at a masonry-pillar built in the ground on the left bank of the Shilái river at its junction with the Kánsái river near a temple in the village of Báragovinda pargana Baradá. It passes through the villages of Barmadihi and Ránibázár on the left bank of the Shilái river, and then along the right bank of the Kántá khál through the villages of Bhángádaha, Párná, Barmadihijhíl, Tablí and Dharmapur, and terminates at the aforesaid pillar.

No. 19.

Ghátál Circuit-embankment.

This is a circuit-embankment 10 miles 1,850 feet, more or less, in length. It commences at a masonry-pillar built in the ground on the left bank of the Shiláí river at its bifurcation with the Árgará river, and passing along the *left* bank of the Shiláí river and through the villages of Shrírámpur, Básudevpur and Sinhapur, it skirts the right bank of the Árgará khál through the villages of Rámchandrapur, Raghunáthchak and others, and terminates at the masonry-pillar aforesaid.

No. 20.

Shekhpur Circuit-embankment.

This is a circuit-embankment 18 miles 5,108 feet, more or less, in length. It commences at a masonry-pillar built in the ground at the bifurcation of the rivers Sánkrá and Jhumí in the village of Shekhpur of pargana Bayḍá, and passing along the left bank of the Jhumí river through the villages of Shrímantapur, Ánandapur and Thákrunchak, thence along the right bank of the Sánkrá river through the villages of Narasinhachak, Kulát, Gujrát and others, terminates at the aforesaid masonry-pillar.

No. 21.

Khásbár Circuit-embankment.

This is a circuit-embankment 5 miles 5,240 feet, more or less, in length. It commences at a masonry-pillar built in the ground at the point of bifurcation of the Jhumí and Ámdá rivers in the village of Lálchak, pargana Baradá, and passing along the right bank of the Jhumí river through the villages of Párvatíchak, Prasádchak and Jaybágh, and thence along the left bank of the Ámdá river through the villages of Khásbár, Soi and Lálchak, it terminates at the aforesaid masonry-pillar.

No. 22.

Chetuyá Circuit-embankment.

This is a circuit-embankment 45 miles 1,420 feet, more or less, in length. It commences at a masonry-pillar built in the ground at the junction of the Rúpnáráyan river and Mohankhálí khál in the village of Mahishghátá, pargana Kharijí Mandalghát, and passing along the left bank of the Mohankhálí

khál through the villages of Dakhinbár, Gauríchak, Govindanagar and Basantapur, thence along the left bank of the Kánsái river through the villages of Kolá, Maheshpur, Gokulnagar and Islámpur, thence along the right bank of the Shilái river through the villages of Surathpur, Raghunáthpur, and Konnagar, to the junction of the Shilái and Rúpnáráyan rivers at Pratáppur, and thence along the right bank of the Rúpnáráyan river through the villages of Harishpur, Jalkanárám, Ráníchak and Gopíganja, it terminates at the aforesaid masonry-pillar.

No. 23.

Dushwáspur Circuit-embankment.

This is a circuit-embankment 18 miles 2,350 feet, more or less, in length. It commences at a masonry-pillar built in the ground on the right bank of the Kánsái river, distant 704 feet and bearing 20° from the Dushwáspur sluice in the village of Dushwáspur of pargana Chetuyá, and passing along the right bank of the Kánsái river through the villages of Nabíndáspur, Kunjapur, Maheshpur, Telándi and Brikshabánpur, thence passing along the left bank of the Petuyá khál through the villages of Fatehpur, Gadáipur and Dhánkholá, it terminates at another masonry-pillar in the village of Krittibáspur, pargana Chetuyá.

No. 24.

Náḍájol Embankment.

This is an embankment 7 miles 1,735 feet, more or less, in length. It commences at a masonry-pillar built in the ground on the left bank of the Kánsái river in the village of Sámát, pargana Chetuyá, and passing along the left bank of the Kánsái river to the village of Madanmohanpur, and thence along the right bank of the Shilái river through the village of Rámadevpur, it terminates at another masonry-pillar in the village of Chandíkhálí, pargana Chetuyá.

No. 25.

Brindávanchak Embankment.

This is an embankment 2 miles 800 feet, more or less, in length. It commences at a masonry-pillar built in the ground in the village of Brindávanchak, pargana Kharijí Mandalghát, and running along the *right* bank of the Durbáchatí khál, terminates at another masonry-pillar in the same village

No. 26.

Dhángaḍiyá Embankment.

This is an embankment 2 miles 2,520 feet, more or less, in length. It commences at a masonry-pillar built in the ground in the village of Dhángaḍiyá, pargana Jáhánábád, and running along the *left* bank of the Rúpnáráyan river, terminates at another masonry-pillar in the same village.

No. 27.

Right Embankment on the Ajay River.

This is a continuous line of embankment on the right bank of the Ajay river, 7 miles 3,980 feet, more or less, in length. It commences at a masonry-pillar fixed in the ground in the village of Gaurbázár of pargana Shergaḍ, and terminates at a masonry-pillar at the junction of the Tumní khál with the Ajay river in the village of Kájládihi of pargana Shanpáháḍí.

No. 28.

Right Embankment on the Ajay River.

This is a continuous line of embankment on the right bank of the Ajay river, 4 miles, more or less, in length. It commences at a masonry-pillar fixed in the ground near a masonry sluice near the junction of the Tumní and Bálpáháḍí kháls in the village of Vishṇupur of pargana Shanpáháḍí, and terminates at a masonry-pillar in the village of Arjunbaní in the said pargana.

No. 29.

Right Embankment on the Ajay River.

This is a continuous line of embankment on the right bank of the Ajay river, 11 miles, more or less, in length. It commences at a masonry-pillar fixed in the ground in the village of Sátkoniyá, pargana Shanpáháḍí, and terminates at a masonry-pillar in the village of Ságarpostá of pargana Gopíbhúm.

No. 30.

Left Embankment on the Ajay River.

This is a continuous line of embankment on the left bank of the Ajay river, 3 miles, more or less, in length. It commences at a masonry-pillar fixed in the ground in the village of Sinhí of pargana Azmatsháhí, and terminates at a masonry-pillar in the village of Bámuniyá in the said pargana.

No. 31.

Right Embankment on the Dámodar River.

This is a continuous line of embankment on the right bank of the Dámodar river, 4,488 feet, more or less, in length. It commences at a masonry-pillar fixed in the ground in the village of Sádipur of pargana Hávelí, and terminates at a masonry-pillar in the village of Krishṇapur in the said pargana.

No. 32.

Left Embankment on the Dámodar River.

This is a continuous line of embankment on the left bank of the Dámodar river, 107 miles, more or less, in length. It commences at a masonry-pillar fixed in the ground in the village of Shiliyá, pargana Champánagar, and terminates at a masonry-pillar in the village of Álipur of pargana Mandalghát.

No. 33.

Right Embankment on the Dámodar River.

This is a continuous line of embankment on the right bank of the Dámodar river, 1 mile 260 feet, more or less, in length. It commences at a masonry-pillar fixed in the ground in the village of Lákiyá, pargana Hávelí, and terminates at a masonry-pillar in the village of Bedgrám in the said pargana.

No. 34.

Right Embankment on the Dámodar River.

This is a continuous line of embankment on the right bank of the Dámodar river, 3,828 feet, more or less, in length. It commences at a masonry-pillar fixed in the ground in the village of Balarámpur, pargana Hávelí, and terminates at a masonry-pillar in the said village.

No. 35.

Right Embankment on the Dámodar River.

This is a continuous line of embankment on the right bank of the Dámodar river, 1 mile 528 feet, more or less, in length. It commences at a masonry-pillar fixed in the ground in the village of Jángírpur, pargana Hávelí, and terminates at a masonry-pillar in the village of Shríkrishṇapur in the said pargana.

No. 36.

Right Embankment on the Dámodar River.

This is a continuous line of embankment on the right bank of the Dámodar river, 18 miles, more or less, in length. It commences at a masonry-pillar fixed in the ground in the village of Wazírpur, pargana Hávelí, and terminates at a masonry-pillar in the village of Dihi Bársat of pargana Bársat.

No. 37.

Right Embankment on the Dámodar River.

This is a continuous line of embankment on the right bank of the Dámodar river, 29 miles 3,560 feet, more or less, in length. It commences at a masonry-pillar fixed in the ground at the junction of the Gáighátí khál with the Dámodar river in the village of Gáighátí, pargana Arsa, and terminates at a masonry-pillar at the junction of the Rúpnáráyan and Huglí rivers at the thirty-second mile-post on the Rúpnáráyan left embankment in the village of Magrápáthar of pargana Mandalghát.

No. 38.

Left Embankment on the Rúpnáráyan River.

This is a continuous line of embankment on the left bank of the river Rúpnáráyan, 31 miles 3,762 feet, more or less, in length. It commences at a masonry-pillar fixed in the ground at the junction of the Rúpnáráyan river and the Bákshi khál in the village of Bákshi, pargana Mandalghát, and terminates at a masonry-pillar at the junction of the Huglí and Rúpnáráyan rivers at the thirty-second mile-post of the Rúpnáráyan embankment in the village of Magrápáthar, pargana Mandalghát.

No. 39.

This is a continuous line of embankment 41 miles and 155 feet, more or less, in length. It commences at a masonry pillar built in the ground in the village of Khodálgobrá, pargana Víraḳul, and running generally parallel with the coast-line of the Bay of Bengal, terminates at a masonry-pillar on the Kánthi and Khejrí road on the right bank of the Rasulpur river in the village of Shyámchak, pargana Káoḍámál.

No. 40.

This is a continuous line of embankment 30 miles, more or less, in length. It commences at a masonry-pillar built in the ground on the Kánthi and Khejrí road on the right bank of the Rasulpur river in the village of Shyámchak, pargana Káoḍámál, and running along the right bank of the Rasulpur river as far as the Kánthi and Tamoluk road, and thence along the right bank of the Shrípái river, terminates at a masonry-pillar in the village of Átlágaḍí, pargana Májnámutá.

No. 41.

This is a circuit-embankment on the right bank of the Rasulpur river, 2 miles 4,868 feet, more or less, in length. It commences and terminates at a masonry-pillar built in the ground in the village of Sánbeḍiyá, pargana Báhirímutá.

No. 42.

This is a continuous line of embankment 30 miles, more or less, in length. It commences at a masonry-pillar built in the ground in the village of Átlágaḍí, pargana Májnámutá, and running along the left bank of the Shrípái river as far as the village of Keshurkunda on the Kánthi and Mednípur road, and thence in a northerly direction to Chaumukh on the Bágdaha river, and thence along the right bank of the Báliaghái khál to the east of the Dhubdá Jhíl, terminates at a masonry-pillar on the sand-ridge in the village of Mádhavpur, pargana Bhográi.

No. 43.

This is a continuous line of embankment 17½ miles, more or less, in length. It commences at the great sea-dyke, east of the Pichabaní sluice, on the left bank of the Pichabaní khál, and running along the said bank as far as the masonry-pillar built in the ground in the yillage of Mádhavpur, pargana Bhográi, and thence along the right bank, terminates at the great sea-dyke west of the Pichabaní sluice.

No. 44.

This is a circuit-embankment on the right bank of the Bágdaha river, 3 miles 2,528 feet, more or less, in length. It commences and terminates at a masonry-pillar built in the ground in the village of Asthichak, pargana Páháḍpur.

No. 45.

This is a continuous line of embankment, 95 miles, more or less, in length. It commences at a masonry-pillar built in the ground in the village of Rámchak, pargana Sujámutá, and running along the left bank of the Ekhtiyárpur khál to its junction with the Madhukhálí river, thence running along the left bank of the Madhukhálí river to the Chauddachulí Inspection Bungalow at the confluence of the Rasulpur river and the Kunjapur or Tálpatí khál, thence running along the left bank of the Kunjapur or Tálpatí khál to its embouchure in the Bay of Bengal, thence running parallel to the coast-line as far as the mouth of the river Haldí, thence following the right bank of this river as far as the junction of the Káliághái and Kánsái rivers, and lastly running along the right bank of the Káliághái river, terminates at a masonry-pillar at the village of Nílakanthapur, pargana Jalámutá.

No. 46.

This is a continuous line of embankment, 5 miles, more or less, in length, on the right bank of the Káliághái river. It commences at a masonry-pillar built in the ground in the village of Kharán, pargana Paṭáspur, and terminates at another masonry-pillar in the said village.

No. 47.

This is a circuit-embankment 34 miles 1,000 feet, more or less, in length. It commences at a masonry-pillar built in the ground near the Barju ghát in the village of Barju, pargana Nárnámuta, and running along the right bank of the Madhukhálí river, the left bank of the Bágdaha river, and the right bank of the Chakbhaváni khál, terminates at the aforesaid pillar. It passes through the villages of Barju, Shimulbaḍí, Dishímilá, Khámgáḍá, Idalpur, Kalarathári, Nishchintar, Ullálbár, Kanyábár, Bhástágáḍá, Khálá Kálkádárí, Sundarpur, Mallikpur, Ballabhpur, Sukákholá, Udaypur, Gopálpur, Baḍa Ádápur, Tamálpur, Chákbátá, Kalsái, Kulbeḍiyá, Chakmáthurí, Chakhábaní, Bhairavdárí, South Chánda, Mangalpur, Dakshindárá, Pratápdighí, Bámanbásan, Sítádighí, Krishnanagar, Páneshwarí, Sháradabar, Mahurá, Chakrashál Khákuḍa, Mangalchak, Tonábilá, Arjunnagar, Puruliyá, Maheshdá, Khámgáḍá, Máldaha, Bárjí, and parganas Nárnámutá, Kismat Paṭáspur, Kismat Dánta, Kharáig, Pratápján, Paṭáspur and Bhátgaḍ.

No. 48.

This is a circuit-embankment 11 miles 1,541 feet, more or less, in length, lying between the Madhukhálí river and Udbádal khál. It commences at a masonry-pillar built in the ground at the junction of the Madhukhálí river and Udbádal khál in the village of Náturiyá, pargana Nárnámutá, and passing through the villages of Udbádal, Chámpáinagar, Kanáshdighí, Náthárá, Khátmárí, Itabeḍiyá, Náudighí, Mánikjoḍ, Hánsghariyá, Mánikjoḍ Básudevbeḍiyá Pátarbeḍiyá, pargana Nárnámutá, terminates at the aforesaid pillar.

No. 49.

This is a circuit-embankment 11 miles 1,525 feet, more or less, in length, lying between the Ekhtiyárpur khál, Madhukhálí river, and Udbádal khál It commences at a masonry-pillar built in the ground at the junction of the Madhukhálí river and Ekhtiyárpur khál in the village of Raghunáthchak, pargana Nárnámutá, and running along the left bank of the Madhukhálí river, left bank of the Udbádal khál, and right bank of the Ekhtiyárpur khál, terminates at the aforesaid pillar. It passes through the villages of Udbádal, Pátná, Dumurdarí, Padutárdi, South Biyadá, Ichhápur, Pánchghariyá, Bhúpatinagar, Raghunáthchak, Nandichak, Khorinet, Govindapur, Jaganmohanpur, Champáinagar, Khánjádápur, Udbádal, and the parganas of Nárnámutá and Káoḍamál.

No. 50.

This is a continuous line of embankment 3 miles 3,255 feet, more or less, in length. It commences at a masonry-pillar built in the ground in the village of Rámchak, pargana Ságámutá, and running along the right bank of the Ekhtiyárpur khál, terminates at a pillar in the village of Rádhápur, pargana Erinchi.

No. 51.

This is a circuit-embankment 7 miles 2,735 feet, more or less, in length, between the Káliághái river and the Bágai khál. It commences at a masonry-pillar built in the ground at the junction of the Káliághái river with the Bágai khál in the village of Daropátná, pargana Paṭáspur, and passing through the villages of Gokulpur, Gholahát, Daropátná, pargana Paṭáspur, terminates at the aforesaid masonry-pillar.

No. 52.

This is a circuit-embankment 20 miles, more or less, in length. It commences at a masonry-pillar built in the ground on the south side of the junction of the Tálpatí khál with the Rasulpur river in the village of Gumgaḍ, pargana Kasbá Hijlí, and running along the left bank of the Rasulpur river to its confluence with the sea, then following the coast-line to the embouchure of the Tálpatí khál in the Bay of Bengal, and thence running along the south bank of the Tálpatí khál, terminates at the aforesaid pillar. It passes through the villages of Gorábár, Devíchak, Dandachak, Kátká, Shyámpur, Bághá, Padurbeḍiyá, Nenapátá, Mohendranagar, Kalágachiyá, Pánchbaḍí, Osilchak, Honábeḍiyá, Orakbeḍiyá, Sálkonḍá, Sáhebchak, Bámanchak, Baḍabáḍí, Phulbáḍí and Mulichak, all in the pargana Kasbá Hijlí.

No. 53.

This is a continuous line of embankment 60 miles 4,110 feet, more or less, in length. It commences at a masonry-pillar built in the ground on the left bank of the Kánsái river in the village of Bárgodá, pargana Tamóluk, and running along the left bank of the Kánsái and Haldí rivers to the confluence of the latter with the river Huglí, and thence along the right bank of the Huglí and Rúpnáráyan rivers, terminates at a masonry-pillar in the village of Bánká, about one-fourth of a mile north of a Hindú temple on the left bank of the Bánká khál.

No. 54.

This is a circuit-embankment, 12 miles 2,550 feet, more or less, in length, situated between the Káliágháí and Kánsái rivers. It commences at a masonry-pillar built in the ground at the junction of the said rivers, and running along the left bank of the Káliágháí river and the right bank of the Kánsái river, terminates at the aforesaid pillar. It passes through the villages of Parashu, Nonákhaḍí, Lakshmanpur, Náríkeldihí, Shunábhay, Áshnán, Chanddabeḍiyá, Máchodal, Kholákhál, Kálkádáḍí, Pánchpukuriyá, Krishnachak and Sálgeḍiyá, all in the pargana Tamoluk.

No. 55.

Rámpur Boáliyá old Embankment.

This is a continuous line of embankment on the left bank of the river Ganges, 17,700 feet in length, more or less. It commences at a masonry-pillar

to be fixed in the ground at the village of Kasabpur, pargana Gharihát, and terminates at a masonry-pillar to be fixed at the village Taliyamarí, pargana Lashkarpur.

No. 56.

Rámpur Boáliyá Embankment.

This is a continuous line of embankment on the left bank of the river Ganges, 8,130 feet in length, more or less. It commences at a masonry-pillar to be fixed in the ground at the village of Bolanpur, pargana Gharihát, and terminates at a masonry-pillar in the village of Kadalkátí, pargana Gharihát, where it joins the road to Dinájpur.

No. 57.

Máldaha Embankment.

This is a continuous line of embankment on the right bank of the Mahánadí river, 11,519 feet, more or less, in length. It commences at a masonry-pillar to be fixed in the ground at the village of Kutabpur, pargana Ámírábád, and terminates at a masonry-pillar in the village of Maheshpur, pargana Bhátiya.

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No. 58.

Left Embankment on the River Huglí.

This is a continuous embankment on the left bank of the river Huglí, 5 miles 4,500 feet, more or less, in length. It commences at Manikhálí khál at a masonry-pillar fixed in the ground in the village of Jagannáthnagar, and terminates at a masonry-pillar in the village of Míjghar, on the north side of Chadiyal khál, near the junction of the Huglí river and Chadiyal khál.

No. 59.

Right Bank of Chadiyal Khál.

This is a continuous embankment on the right bank of the Chadiyal khál, 2,780 feet, more or less, in length. It commences at a masonry-pillar in the village of Míjghar, on the north side of Chadiyal khál, near the junction of Huglí river and Chadiyal khál, and terminates at a masonry-pillar in the village of Gharbanmoniyá, on the north bank of Chadiyal khál, near the junction of Chadiyal khál, and the Calcutta and Áchípur road.

No. 60.

Left Bank of Chadiyal Khál.

This is a continuous embankment on the left bank of Chadiyal khál, 3,280 feet, more or less, in length. It commences at a masonry-pillar in the village of Jaychandípur, near the junction of left bank of Chadiyal khál and the Calcutta and Áchípur road, and terminates at a masonry-pillar in the said village of Jaychandípur, near the junction of river Huglí and Chadiyal khál.

No. 61.

Left Bank of Huglí River.

This is a continuous embankment on the left bank of Huglí river, 19 miles 1,320 feet, more or less, in length. It commences at a masonry-pillar in the village of Jaychandípur, near the junction of river Huglí and Chadiyal khál, and continues along the left bank of Huglí river to Púját khál, on both sides of Púját khál, between the river Huglí and the road leading from Calcutta to Áchípur, and again down the left bank of the river Huglí to the right bank of Faltá khál, and terminates at a masonry-pillar in the village of Faltá, near the junction of river Huglí and Faltá khál.

No. 62.

Right Bank of Faltá Khál.

This is a continuous embankment on the right bank of Faltá khál, 2 miles 1,320 feet, more or less, in length. It commences at a masonry-pillar in the village of Faltá, on the north side of the khál, near the junction of river Huglí and Faltá khál, and terminates at a masonry-pillar on the right bank of Faltá khál in the village of Sohárá.

No. 63.

Left Bank of Faltá Khál.

This is a continuous embankment on the left bank of Faltá khál, 2 miles 1,360 feet, more or less, in length. It commences at a masonry-pillar on the left bank of Faltá khál, in the village of Básudiyápur, and terminates at a masonry-pillar on the left bank of the khál in the village of Táráganja, near the junction of river Huglí and Faltá khál.

No. 64.

Left Bank of Huglí River.

This is a continuous embankment on the left bank of river Huglí, 11 miles 2,780 feet, more or less, in length. It commences at a masonry-pillar in the village of Táráganja, near the junction of river Huglí and Faltá khál, and terminates at a masonry-pillar in the village of Shimulganja, on the right bank of Khólákhálí khál, near its junction with Huglí river.

No. 65.

Right Bank of Khólákhálí Khál.

This is a continuous embankment on the right bank of Khólákhálí khál, 3,500 feet, more or less, in length. It commences at a masonry-pillar in the village of Shimulganja on the right bank of Khólákhálí khál, near its junction with Huglí river, and terminates at a masonry-pillar on the right bank of the khál in the village of Darígovindapur.

No. 66.

Left Bank of Khólákhálí Khál.

This is a continuous embankment on the left bank of Khólákhálí khál 4,800 feet, more or less, in length. It commences at a masonry-pillar on the left bank of Khólákhálí khál in the village of Jangalpáḍá, and terminates at a masonry-pillar on the left bank of the khál in the village of Rámchandra-nagar, near the junction of Huglí river and Khólákhálí khál.

No. 67.

Left Bank of Huglí River.

This is a continuous embankment on the left bank of river Huglí, 3 miles 2,260 feet, more or less, in length. It commences at a masonry-pillar in the village of Rámchandrapur, near the junction of Huglí river and Khólákhálí khál, and terminates at a masonry-pillar on the right bank of Diamond Harbour Creek in the village of Hájípur, near the junction of Huglí river and Diamond Harbour Creek.

No. 68.

This is a continuous embankment on the right bank of Diamond Harbour Creek, 7 miles 3,100 feet, more or less, in length. It commences at a masonry-

pillar on the right bank of Diamond Harbour Creek in the village of Hájípur, near the junction of Huglí river and Diamond Harbour Creek, and terminates at a masonry-pillar in the right bank of Diamond Harbour Creek in the village of Diyárná.

No. 69.

Left Bank of Diamond Harbour Creek.

This is a continuous embankment on the left bank of Diamond Harbour Creek, 6 miles 680 feet, more or less, in length. It commences at a masonry-pillar on the left bank of Diamond Harbour Creek in the village of Diyárná, and terminates at a masonry-pillar on the left bank of the Diamond Harbour Creek in the village of Mádhavpur, near the junction of Huglí river and Diamond Harbour Creek.

No. 70.

Left Bank of the Huglí River.

This is a continuous embankment on the left bank of river Huglí, 8 miles, more or less, in length. It commences at a masonry-pillar on the left bank of Diamond Harbour Creek, in the village of Mádhavpur, near the junction of Huglí river and Diamond Harbour Creek, and terminates at a masonry-pillar on the right bank of Kulpí Nadí in the village of Mashámárí, near the junction of Huglí river and Kulpí Nadí.

No. 71.

Right Bank of Kulpí Nadí.

This is a continuous embankment on the right bank of Kulpí Nadí, 1 mile more or less, in length. It commences at a masonry-pillar on the right bank of Kulpí Nadí in the village of Mashámárí, and terminates at a masonry-pillar on the right bank of Kulpí Nadí in the village of Jánakímárí.

No. 72.

Left Bank of Kulpí Nadí.

This is a continuous embankment on the left bank of Kulpí Nadí, 1 mile, more or less, in length. It commences at a masonry-pillar on the left bank of Kulpí Nadí in the village of Gaurípur, and terminates at a masonry-pillar on the left bank of Kulpí Nadí in the village of Durgánagar, near the junction of Huglí river and Kulpí Nadí.

No. 73.

Left Bank of River Huglí.

This is a continuous embankment on the left bank of Huglí river, 6 miles 2,640 feet, more or less, in length. It commences at a masonry-pillar on the left bank of Kulpí Nadí in the village of Durgánagar, near the junction of Huglí river and Kulpí Nadí, and terminates at a masonry-pillar in the village of Chalámurí, near Chalámurí semaphore.

No. 74.

Sundarban Embankment.

This is a continuous embankment in the Sundarbans, 8 miles 2,640 feet, more or less, in length. It commences at a masonry-pillar in the village of Chalámurí, near Chalámurí semaphore, and terminates at a masonry-pillar near the right bank of the Shrírámpur khál in the village of Vaidyanáthpur.

No. 75.

Right Bank of Shrírámpur Khál.

This is a continuous embankment on the right bank of the Shrírámpur khál, 6 miles 2,640 feet, more or less, in length. It commences at a masonry-pillar on the right bank of Shrírámpur khál in the village of Vaidyanáthpur, and terminates at a masonry-pillar in the village of Kontáheniyá.

No. 76.

Left Bank of Shrírámpur Khál.

This is a continuous embankment on the left bank of Shrírámpur khál, 9 miles 2,640 feet, more or less, in length. It commences at a masonry-pillar in the village of Kontáheniyá, and terminates at a masonry-pillar on the left bank of the Shrírámpur khál in the village of Tákitpur Dighí.

No. 77.

Sundarban Embankment.

This is a continuous embankment in the Sundarbans, 26 miles, more or less, in length. It commences at a masonry-pillar on the left bank of Shrírámpur khál in the village of Tákitpur Dighí, and terminates at a masonry-pillar on the right bank of Khádí khál in the village of Gulárchánt.

No. 78.

Right Bank of Khádí Khál.

This is a continuous embankment on the right bank of Khádí khál, 3 miles 602 feet, more or less, in length. It commences at a masonry-pillar on the right bank of Khádí khál in the village of Gulárchánt, and terminates at a masonry-pillar in the village of Meghíbed, near a drainage-sluice.

No. 79.

Left Bank of Khádí Khál.

This is a continuous embankment on the left bank of Khádí khál, 3 miles 2,040 feet, more or less, in length. It commences at a masonry-pillar in the village of Meghíbed, and terminates at a masonry-pillar on the left bank of the khál in the village of Kámárhátá.

No. 80.

Sundarban Embankment.

This is a continuous embankment in the Sundarbans, 19 miles, more or less, in length. It commences from a masonry-pillar on the left bank of the Khádí khál in the village of Kámárhátá, and terminates at a masonry-pillar on the right bank of Piyálí river in the village of Talpí.

No. 81.

Right Bank of Piyálí River.

This is a continuous embankment on the right bank of Piyálí river, 3 miles, more or less, in length. It commences at a masonry-pillar on the right bank of Piyálí river in the village of Talpí, and terminates at a masonry-pillar on the right bank of the Piyálí river in the village of Chordákáití.

No. 82.

Right Bank of Súrjyapur Khál.

This is a continuous embankment on the right bank of Súrjyapur, or Pashchanbáhan khál, 8 miles, more or less, in length. It commences at a masonry-pillar on the right bank of Piyálí river in the village of Chordákáití, and terminates at Pashchanbáhan sluice in the village of Bulbuliyá.

No. 83.

Left Bank of Súrjyapur Khál.

This is a continuous embankment on the left bank of Súrjyapur or Pashchanbáhan khál, 4 miles 2,640 feet, more or less, in length. It commences at a Pashchanbáhan sluice in the village of Bulbuliyá, and terminates at a masonry-pillar on the left bank of Súrjyapur khál in the village of Rámnagar.

No. 84.

Right Bank of the Piyálí River.

This is a continuous embankment on the left side of Piyálí river, 9 miles 2,160 feet, more or less. It commences at a masonry-pillar on the left bank of Súrjyapur khál in the village of Rámnagar, and terminates at a masonry-pillar on the right bank of Vidyádharí river, in the village of Sángar, near the junction of Vidyádharí and Piyálí rivers.

No. 85.

Left Bank of Piyálí River.

This is a continuous embankment on the left bank of Piyálí river, 3 miles 3,960 feet, more or less, in length. It commences from a masonry-pillar on the left bank of Piyálí river in Sundarban lot No. 45, and terminates in a masonry-pillar on the right bank of the Bághmárí khál in the village of Jalyerát, near the junction of Piyálí river with Bághmárí khál.

No. 86.

Left Bank of Bághmárí Khál.

This is a continuous embankment on the left bank of the Bághmárí khál, 2 miles 2,640 feet, more or less, in length. It commences from a masonry-pillar in the village of Jalyerát, near the junction of Piyálí river and Bághmárí khál, and terminates at a masonry-pillar at the side of Mátlá road in the village of At Rámdhar.

No. 87.

Right Bank of Bághmárí Khál.

This is a continuous embankment on the right side of Bághmárí khál, 1 mile 1,320 feet, more or less, in length. It commences at a masonry-pillar

at the side of Mátlá road in the village of Kulari, and terminates at a masonry-pillar on the left bank of Piyálí river in the village of Kist Kálábaruyí.

No. 88.

Left Bank of Piyálí River.

This is a continuous embankment on the left bank of the Piyálí river, 4 miles 2,460 feet, more or less, in length. It commences at a masonry-pillar on the left bank of Piyálí river in the village of Kist Kálábaruyí, and terminates at a masonry-pillar in the village of Pavan, about a quarter of a mile north of the Calcutta and South-Eastern Railway.

No. 89.

Left Bank of Piyálí River.

This is a continuous embankment on the left bank of Piyálí river, 2 miles 2,640 feet, more or less, in length. It commences at a masonry-pillar in the village of Shríkrishnapur, and terminates at a masonry-pillar on the right bank of Vidyádharí river, near the junction of Vidyádharí and Piyálí rivers.

No. 90.

Right Bank of Vidyádharí River.

This is a continuous embankment on the right bank of Vidyádharí river, 8 miles, more or less, in length. It commences at a masonry-pillar on the right bank of Vidyádharí river in the village of Báliyápur, and terminates in a masonry-pillar on the right bank of the same river, near the junction of Vidyádharí and Piyálí rivers.

No. 91.

Right Bank of Vidyádharí.

This is a continuous embankment on the right bank of Vidyádharí river, 2 miles 3,120 feet, more or less, in length. It commences at a masonry-pillar near the junction of the Vidyádharí and Piyálí rivers in the village of Sángar, and terminates at a masonry-pillar on the right bank of Vidyádharí river, near its junction with Tolly's Canal in the village of Pratápnagar.

No. 92.

South side of Tolly's Canal.

This is a continuous embankment on south side of Tolly's Canal, 10 miles, more or less, in length. It commences at a masonry-pillar on the right bank of Vidyádharí river, near the junction of Vidyádharí river and Tolly's Canal in the village of Pratápnagar, and terminates at a masonry-pillar on the south side of Tolly's Canal in the village of Karmábád.

No. 93.

North side of Tolly's Canal.

This is a continuous line of embankment on the north side of Tolly's Canal, 2 miles 4,020 feet, more or less, in length. It commences at a masonry-pillar on the north side of Tolly's Canal in the village of Naoyábád, and terminates at a masonry-pillar in the jungle in the village of Tehuráhá.

No. 94.

Bhágírathí Embankments.

This is a line of disconnected embankment on the left bank of the Bhágírathí river, extending from Paláshí bázár, pargana Paláshí, district Nadiyá, to Dádmati, pargana Rokanpur, district Murshidábád, a distance of about 93 miles.

No. 95.

Kánchikátá Embankment.

This is a continuous line of embankment about 4,000 feet in length on the right bank of the Mátábhángá river. It commences in the village of Lakshmípur, pargana Bájpur, district Nadiyá and terminates at the bottom of the new cut opposite the village of Rádhákántapur in the same pargana and district.

SCHEDULE E—(*referred to in sections 36 and 44*).

Pargana.	District.	Amount of contribution.
		Rs. A. P.
Fatehsinha	Murshidábád	1,706 10 8
Rokanpur	Ditto	1,466 2 0

ACT No. VII OF 1873.

Received the Lieutenant-Governor's assent on the 22nd of December 1873, and the Governor General's assent on the 30th idem.

An Act to amend the law relating to the emigration of labourers to the districts of Assam, Káchár and Silhat, and to regulate contract labour and service.[a]

WHEREAS it is expedient to amend the law regulating the emigration of native inhabitants of India from or through the Provinces subject to the Government of Bengal to the districts of Assam, Káchár and Silhat, and the manner of engaging and contracting with Native inhabitants of the said Provinces to proceed to the said districts, and providing for the protection of the persons so proceeding, and for the enforcement of the contracts of service entered into by them; It is hereby enacted as follows:— Preamble.

PART I.—PRELIMINARY.

Chapter I.—Application and Miscellaneous.

1. This Act may be called "The Labour Districts Emigration Act." Short title.

2. Bengal Act II of 1870 (*to consolidate and amend the law relating to the transport of labourers to the districts of Assam, Káchár and Silhat, and their employment therein*) is hereby repealed. Repeal of Act II of 1870.

All contracts entered into, appointments made and licenses granted, under the said Act, or any of the Acts thereby repealed, shall be deemed to have been respectively entered into, made and granted under this Act.

3. In this Act, unless there be something repugnant in the subject or context— Interpretation-clause.

"India" means the territories for the time being vested in Her Majesty by the Statute 21 & 22 Vic., cap. 106, entitled "*An Act for the better Government of India,*" other than the Settlement of Prince of Wales' Island, Singapore and Malacca: "India."

"the labour-districts" mean the districts of Assam, Káchár, Silhat, Chittagong and the Chittagong Hill Tracts[b] and a "labour-district" means any one of those districts: "The labour-districts."

"Magistrate" includes a Magistrate of a district or of a division of a district, and any Magistrate of the first and second class, and any Magistrate of Police for the town of Calcutta: "Magistrate."

"employer" means the chief person for the time being in charge of any lands upon which labourers may be employed: "Employer."

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[a] See Bengal Act No. II of 1878.

[b] Bengal Act No. II of 1878.

"Garden-sardár." "garden-sardár" means any person authorized by certificate by an employer to engage Natives of India to proceed to a labour-district under contracts to be made and executed according to the provisions of this Act:

"Recruiter." "recruiter" means any person licensed under the provisions of this Act as a recruiter:

"Contractor." "contractor" means any person licensed under the provisions of this Act as a contractor:

"Emigrant." "emigrant" means any Native of India above the age of sixteen years who has engaged with any garden-sardár or recruiter or other person to proceed to a labour-district for the purpose of labouring therein for hire:

"Labourer." "labourer" means any emigrant who has been conveyed to a labour-district in accordance with a contract made under the provisions of Bengal Act III of 1863,[a] Bengal Act VI of 1865,[b] Bengal Act II of 1870,[c] or this Act, during the duration of such contract:

"Vessel." "vessel" includes a steamer, a flat, a boat, and anything made for the conveyance by water of human beings or property:

"Master." "master" means the person for the time being in charge of a vessel.

Power of Lieutenant-Governor to make rules.

4. The Lieutenant-Governor may from time to time make rules consistent with this Act, and from time to time alter, vary and revoke such rules:—

(1)—to regulate the subordination of the several officers of emigration to the superintendent:

(2)—to prescribe the periodical returns and reports to be made by the emigration-officers, by Magistrates, and by the inspectors of labourers:

(3)—to prescribe the amount of the several fees to be paid under the provisions of this Act:

(4)—to provide for the management and regulation of contractors' depôts and of hospital-depôts:

(5)—to provide for the medical care of emigrants during their residence at the depôts, and during transport to a labour-district:

(6)—to prescribe the nature, quality and quantity of medical drugs and other stores to be carried on vessels taking emigrants:

(7)—to prescribe the clothing to be supplied to emigrants while proceeding to a labour-district:

(8)—to prescribe the description, quantity and quality of provisions to be taken by vessels carrying emigrants, and the daily allowance to be issued to each emigrant during the journey:

[a, b] Repealed by Bengal Act No. II of 1870. [c] Repealed by this Act.

(9)—to provide for the ventilation and cleanliness of vessels during the journey, to prescribe the number of officers, cooks and other servants, and to provide for their control; and to provide generally for the accommodation of emigrants:

(10)—to provide for the accommodation, support and medical treatment of all emigrants detained at any place by order of a Magistrate on account of sickness:

(11)—to provide for the periodical inspection of labourers, and the books to be kept by inspectors of labourers:

(12)—to provide for the house-accommodation, water-supply, sanitary-arrangements and supply of rice to be provided by employers for their labourers:

(13)—to provide for the hospital-accommodation and medical care of labourers, and to prescribe the nature, quality and quantity of medical drugs and other stores to be provided for them.[a]

The Lieutenant-Governor may from time to time fix penalties not inconsistent with any of the provisions of this Act for infringements of any such rules, which may be enforced and recovered as other penalties under this Act on conviction by a Magistrate:

Provided that no penalty shall exceed five hundred rupees.

All such rules, with the penalties (if any) for their infringement, shall be published in the *Calcutta Gazette*,[b] and shall be separately printed and sold to the public at four annas for each copy.

Contract made with emigrant a charge upon land;

5. Every contract made according to the provisions of this Act, and all arrears of wages due under any such contract, and all fines imposed on any employer under the provisions of this Act, shall be a charge upon the lands upon which any person has been engaged to labour under such contract.

and transferred with land.

The owner of such lands for the time being shall have all rights and remedies against such person, as if such owner had been originally the party executing such contract as employer.

Determination of ownership determines liability.

No person, after he has ceased to be the owner of such lands, nor his property nor effects, shall be in anywise liable or responsible for any breach of such contract which may have occurred after he has ceased to be such owner.

Any person above age of 16 years may contract.

6. Any engagement or contract made under the provisions of this Act by a Native of India, who is above the age of sixteen years, shall be held valid.

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[a] See section 114, *infra*.

[b] See *Calcutta Gazette*, 21st January, 1874, Part I, pp. 127—170: *ibid.*, 18th November, 1874, Part I, p. 1687: *ibid.*, 5th May, 1875, Part I, p. 541: *ibid.*, 2nd June, 1875, Part I, p. 640: *ibid.*, 7th July, 1875, Part I, p. 828: *ibid.*, 29th March, 1876, Part I, p. 291: *ibid.*, 5th April, 1876, Part I, p. 311: *ibid.*, 14th June, 1876, Part I, p. 663: *ibid.*, 23rd August, 1876, Part I, p. 1052: *ibid.*, 9th January, 1878, Part I, p. 26: *ibid.*, 8th May, 1878, Part I, p. 376: *ibid.*, 5th June, 1878, Part I, p. 507.

Contract for more than one year. Contracts in case of estates unfit for residence.

7. No contract to labour in the labour-districts for more than one year shall be binding upon an emigrant, unless it is made and executed according to the provisions of this Act; and no emigrant shall be bound to fulfil any contract of labour upon any estate or portion of an estate which has been declared unfit for the residence of labourers under the provisions of sections 118 and 119.

Penalty for offence not specially provided for.

8. For every offence against the provisions of this Act, for which no special penalty or amount of fine is prescribed, the offender shall, on conviction by a Magistrate, be punished with a fine not exceeding two hundred rupees.

Wherever in this Act no special term of imprisonment is appointed in default of payment of the fine, the offender shall be liable to imprisonment, simple or rigorous, for a term not exceeding one month.

Procedure on trial of offences created by Act.

9. All offences against this Act committed without the town of Calcutta shall be inquired into and tried according to the provisions of the Code of Criminal Procedure, and all offences against this Act committed within the said town, shall be inquired into and tried by a Police Magistrate of the said town, according to the provisions of the laws regulating the investigation and trial of offences within the said town, which shall be for the time being in force.

Part II.—Emigration.

Chapter II.—Restrictions and Appointment of Officers.

Power to prevent emigration of labourers.

10. It shall be lawful for the Lieutenant-Governor of Bengal, in case he shall be of opinion that the emigration of Natives of India from any district, or to any particular part of any labour-district, for the purpose of labouring, is likely to be attended with danger to the health of any Native of India so emigrating or others, or if the Lieutenant-Governor has reason to believe that a political disturbance is likely to occur in any labour-district, to prohibit, by an order under his hand, the emigration of such Natives from such district, or to such labour-district or particular part thereof, and from time to time to revoke or vary any such order; and every such order or variation or revocation thereof shall be published in the *Calcutta Gazette*.

Penalty on engaging Natives contrary to such order.

11. Any person who shall knowingly engage any Native of India so to emigrate while any such emigration shall be prohibited under the provisions of the last preceding section, shall be liable to a fine not exceeding fifty rupees for every Native who may have been so engaged.

Appointment of superintendent of emigration, embarkation-agents, and medical inspectors.

12. The Lieutenant-Governor may appoint a proper person to be the superintendent of emigration at Calcutta, and may also appoint any proper person to be superintendent of emigration at any other place with all or any of the powers of a superintendent of emigration, and may also appoint proper persons to be embarkation-agents and medical inspectors of emigrants at any places where he may think proper, and define by notification in the *Calcutta Gazette*

the local limits within which each such officer shall exercise the powers and authority conferred upon him by this Act.

He may at any time suspend or remove any such officer.

Employer may recruit by garden-sardár.

13. Any employer may, by certificate, authorize a garden-sardár to engage Natives of India to proceed to a labour-district for the purpose of labouring therein for hire upon lands of which such employer is in charge, under contracts to be made and executed according to the provisions of this Act.

Superintendent may license contractors and recruiters.

14. It shall be lawful for the superintendent of emigration to grant to such persons as he may think fit licenses to act as contractors for engaging and supplying persons for the purpose of labouring for hire in the labour-districts, or to act in behalf of some contractor as recruiters for engaging persons to proceed to the said districts for the purpose of labouring therein for hire.

Duration of contract.

15. A contract executed under the provisions of this Act shall in no case exceed the term of three years from the date of the arrival of the emigrant on the estate of his employer in the labour-district for which he is engaged.

Form and particulars of contract.

Every such contract shall be in the form in schedule (A) annexed to this Act, and shall be reduced to writing, and shall specify the monthly amount of wages in money, the period of service, the name of the district in which the service is to be performed, and the price at which rice is to be supplied to the labourer.

Chapter III.—Garden-sardár.

Garden-sardár to obtain certificate from employer, and to present it to Magistrate.

16. Every garden-sardár, authorized by an employer under the provisions of section 13 to engage Natives of India to proceed to a labour-district for the purpose of labouring therein for hire, shall, before proceeding to engage any such Native, personally present to the Magistrate of the district, or division of the district, within which is situate the estate of the employer, a certificate signed by such employer, in which shall be stated the name and description of such garden-sardár, the name and description of the lands for the purpose of labouring upon which he is about to engage such Natives, the district (or the town of Calcutta, as the case may be) in which he is about to engage them, the number which he is authorized to engage, and, if the number exceeds twenty, the name of the contractor to whose depôt they shall be conveyed.

The certificate shall be in the form set forth in schedule (B) annexed to this Act.

Magistrate after inquiry to countersign it.

17. Such Magistrate shall inquire into the facts stated in such certificate, and, upon being satisfied that the same are true, shall, unless it appears to him that the person so presenting such certificate is unfit to be employed for the purpose of engaging Natives to proceed to a labour-district to labour therein for hire, countersign and date such certificate, and every such certi-

ficate shall be in force for six months from the date last mentioned and no longer.

Garden-sardár authorized to engage more than twenty Natives subject to provisions relating to recruiter.

18. If, under his certificate from his employer, any garden-sardár is authorized to engage more than twenty Natives of India, he shall be in all respects, save as regards his certificate, subject to the provisions of this Act which relate to recruiters.

The following rules of this chapter shall apply to every garden-sardár who is not authorized to engage more than twenty such Natives.

Garden-sardár who is not a Recruiter.

Has no authority until certificate is countersigned by Magistrate.

19. A garden-sardár shall not have authority in any district under the control of the Lieutenant-Governor of Bengal to engage or attempt to engage a Native of India to become an emigrant, until his certificate has been countersigned by the Magistrate of such district or of such division of the district, or in Calcutta, until his certificate has been countersigned by the Commissioner or the Deputy Commissioner of Police in Calcutta.

Magistrate may cancel certificate.

It shall be lawful for such Magistrate, in case of misconduct, or disobedience to, or neglect of, any of the provisions of this Act by a garden-sardár, to cancel the certificate of such garden-sardár.

Every Native to appear before Magistrate before removal from district.

20. Every Native of India who enters into an engagement with a garden-sardár to proceed to a labour-district for the purpose of labouring for hire, shall appear with the garden-sardár before the Magistrate of the district or of the division of the district within which the engagement was made, or through which he shall first pass on the road to his destination.

The garden-sardár shall at the same time produce his certificate to the Magistrate.

Magistrate to examine Native, and if examination is satisfactory, to register particulars;

21. On the appearance of such Native, the Magistrate shall examine him with reference to his engagement; and, if it appears that he understands such engagement as regards the locality, period and nature of the service, the rate of wages, and the price at which rice is to be supplied, and that he is willing to fulfil the same, the Magistrate shall register, in a book to be kept for the purpose, the following particulars, viz.:—

(1) the name, the name of the father, and the age, of such Native;

(2) the name of the village or place of which such Native is a resident;

(3) the labour-district to which he is engaged to proceed;

(4) the period of service;

(5) the rate of wages, and the price at which rice is to be supplied:

but may require medical certificate.

Provided that the Magistrate may, if he thinks fit, require such Native to appear before such medical officer as he may direct, and may refuse to register such Native, unless the medical officer certifies in writing that he is in a fit

state of health and able, in point of physical condition, to journey to and work for hire in a labour-district.

Magistrate, &c., may refuse to register.

22. If the Magistrate finds that such Native does not understand the nature of the engagement, or has been induced to enter into the engagement by fraud or misrepresentation, or if the garden-sardár shall not have produced his certificate, he shall refuse to register such Native.

Fee for registration.

23. For the registration of every such Native the garden-sardár shall pay to the registering officer a fee not exceeding one rupee and eight annas.

Contract to be in duplicate and abstract to be entered in book to be kept by Magistrate;

24. When such registration has been made, the emigrant shall execute a contract with the employer with whom he intends to contract.

Such contract shall, in the presence of the Magistrate, be signed in duplicate both by the emigrant and by the garden-sardár on behalf of his employer.

The contract may be written or printed, or partly written and partly printed, and shall be on substantial paper.

An abstract of every such contract shall be entered in a register to be kept by the Magistrate for the purpose; and after such abstract has been so entered, one of the duplicates shall be given to the emigrant and the other to the garden-sardár.

and copy to be sent to superintendent and Magistrate.

The Magistrate shall forward a certified copy of every such abstract so entered as aforesaid to the superintendent of emigration, by whom it shall be forwarded, after entry in his own register, to the Magistrate of the district within which the service under such contract is agreed to be performed.

Provisions applied to Natives recruited in Calcutta.

25. The provisions of the six last preceding sections shall be applicable to Natives of India engaged by a garden-sardár within the town of Calcutta, except that they shall appear for registration and execution of contract before the superintendent of emigration.

Natives recruited in districts not in Bengal.

26. Every Native of India who shall be brought or induced to come by any garden-sardár from any Province or district not under the control of the Lieutenant-Governor of Bengal, for the purpose of entering into a contract to proceed to the labour-districts to labour therein for hire, shall be presented by the garden-sardár for registry under the provisions of this chapter at some place within the district under the control of the said Lieutenant-Governor into which he shall first come, or at Calcutta, if he shall first come there.

Garden-sardár to accompany emigrants.

27. The garden-sardár shall personally accompany Natives of India engaged by him throughout their journey from the place in which the engagement was made to the place in which they are to be employed.

Garden-sardárs not to proceed with more than twenty emigrants in one batch.

28. It shall not be lawful for two or more garden-sardárs to proceed together towards a labour-district accompanied by emigrants, if the total number of such emigrants exceeds twenty, or unless the permission of the superintendent of emigration or embarkation-agent shall have been first obtained.

Provision of food and lodging for emigrants on journey.

29. Every garden-sardár by whom any emigrant is accompanied shall provide such emigrant with proper and sufficient food and lodging throughout such journey.

When Magistrate may award compensation, or cancel contract.

If it shall appear to any Magistrate, on the complaint of any such emigrant at any place on the journey, that he has suffered any ill-treatment during the journey or that the garden-sardár has failed to provide him with proper and sufficient food and lodging; or if it be found on examination by a medical officer appointed by a Magistrate for such purpose that any such emigrant is not in a fit state of health to proceed to or to labour in a labour-district, such Magistrate may order the garden-sardár to pay to such emigrant a sum of money by way of compensation, or may cancel the contract and order the garden-sardár to pay to him a sum of money sufficient to enable him to return to the place at which he was engaged.

Recovery of fines ordered by Magistrate.

30. If any garden-sardár who may be ordered under the provisions of the last preceding section to pay any sum of money shall for twenty-four hours omit to comply with such order, it shall be lawful for the Magistrate to advance the amount so ordered to be paid to the emigrant named in such order, and to recover from his employer the sum so advanced with interest at the rate of twelve per centum per annum from the date of such advance.

Agent in Calcutta may procure order from superintendent of emigration cancelling contract on payment of expense of return.

31. On the arrival in Calcutta of any emigrant whose contract has been executed by a garden-sardár on behalf of his employer, any person empowered to act as the agent or representative of such employer may require the emigrant to appear before the superintendent of emigration for the purpose of cancelling the contract.

The superintendent of emigration shall, on the appearance of such emigrant, declare that the contract is cancelled, if a sum of money sufficient for his support during his return to the place at which he was engaged be paid to him before himself and not otherwise, and shall make an endorsement to that effect on the contract and shall attest it with his signature:

Provided that the contract of any husband or wife, or parent or child, of such emigrant, who may have executed a contract at the same time with the same employer, shall be cancelled at the request of such person; and in such case an equal sum of money shall be paid to such person.

Report of arrival in labour-district.

32. As soon as possible after the arrival of the garden-sardár with emigrants at the place of disembarkation, or at the nearest civil station in the district within which the emigrant has engaged to labour, the garden-sardár shall report himself to the Magistrate of the district or division of the district or to any subordinate Magistrate whom the Magistrate may depute for that purpose, and such Magistrate shall check the number of emigrants landed

with the number of those registered, and shall report to the superintendent of emigration any deaths which may have occurred on the journey.

Any garden-sardár who neglects to report himself as aforesaid shall, on conviction by a Magistrate, be punished with imprisonment, simple or rigorous, which may extend to three months.

Chapter IV.—Contractor.

Form of license.

33. The license granted to a contractor under section 14 shall be in the form set forth in the schedule (C) annexed to this Act.

Fee.

For every license there shall be paid to the superintendent of emigration a fee not exceeding one hundred rupees.

Period.

Every such license shall be in force for one year and no longer; and in case of misconduct or disobedience to, or neglect of, any of the provisions of this Act by a contractor, the superintendent may cancel his license before the expiration of such period.

To give information to superintendent.

34. It shall be the duty of every contractor to afford such information to the superintendent of emigration, and to make such returns and reports to him, as the superintendent, with the sanction of the Lieutenant-Governor, may from time to time require.

To establish and maintain depôts.

35. Every contractor shall forthwith, upon obtaining his license, establish a depôt in a place to be approved of by the superintendent of emigration.

Every such depôt shall be maintained by such contractor for the reception of Natives of India to be supplied or forwarded by or through him.

All such Natives shall on their arrival at or in the neighbourhood of the depôt so established by the contractor, by, through, to, or for, whom they were engaged or forwarded, be forthwith received therein; and shall receive in such depôt, at the expense of such contractor, suitable lodging, food, clothing and medical attendance until such Native shall be declared by the superintendent to be no longer thereto entitled.

Every such depôt as aforesaid shall be under the supervision of the superintendent, and shall be open to his inspection and the inspection of the medical inspector at all times.

May act as recruiter.

36. A contractor may without other license act as a recruiter, and shall in such case be subject to all the provisions hereinafter contained with regard to recruiters.

Establishment of hospital-depôt.

37. In addition to the depôts for the reception of emigrants which the contractors are required to establish and maintain, the Lieutenant-Governor may at any time direct that a separate depôt shall be established and maintained at any place for the reception of emigrants who are affected with cholera or other contagious disease.

Contractor to contribute to expense.

Whenever such hospital-depôt is established, every contractor may be required to contribute to the expense of establishing and maintaining it in such proportion as the Lieutenant-Governor may direct.

Charge of hospital-depôt.

Such hospital-depôt shall be under the charge of the medical inspector, who shall be competent at any time to direct the transfer thereto of any emigrants on or after their arrival at any depôt.

Chapter V.—Recruiter.

Form of license.

38. The license granted to a recruiter under section 14 shall be in the form set forth in schedule (D) annexed to this Act.

Fee.

For every license there shall be paid to the superintendent of emigration a fee not exceeding sixteen rupees.

Period.

Every such license shall be in force for one year and no longer; and in case of misconduct or disobedience to, or neglect of, any of the provisions of this Act by a recruiter, the superintendent may cancel his license before the expiration of such period.

Recruiter to hold pass.

39. Every recruiter shall hold a written pass signed by the contractor on whose behalf he is licensed to act.

No authority till license countersigned by Magistrate of recruiting district.

40. A recruiter shall not have authority in any district under the control of the Lieutenant-Governor of Bengal to engage or attempt to engage a Native of India to become an emigrant until his license has been countersigned by the Magistrate of the district or of the division of the district, or in Calcutta, until his license has been countersigned by the Commissioner or the Deputy Commissioner of Police in Calcutta; and such Magistrate or Commissioner or Deputy Commissioner of Police shall, unless it appears to him that the person to whom a license has been granted is unfit to be employed as a recruiter, countersign such license.

Magistrate may withdraw license and suspend recruiting.

The Magistrate or Commissioner or Deputy Commissioner of Police may at any time for any sufficient reason withdraw such license, provided that in any such case he shall record his reasons in writing, and shall forward a copy thereof without delay to the superintendent of emigration.

Recruiter to provide accommodation for Natives before license countersigned.

41. The Magistrate or the Commissioner or Deputy Commissioner of Police in Calcutta, to whom any recruiter's license shall have been exhibited for countersignature, shall not countersign the same until he shall be satisfied that sufficient accommodation has been provided and is available for such Natives of India as may be engaged by such recruiter pending their removal to a depôt.

Magistrate charged with superintendence of accommodation.

The Magistrate of the district or division of the district in which there may be any such accommodation provided, shall have, for the supervision, management and regulation of such accommodation, all such and the same

powers and authorities as are vested in the superintendent of emigration for the supervision, management and regulation of depôts which are subject to the powers and authority of the superintendent.

Native to be taken for examination to medical officer, who may reject.

42. Every Native of India who shall, in any place or town within the said Provinces, enter into any engagement with any recruiter to proceed to a labour-district for the purpose of labouring for hire, shall be brought by such recruiter before such medical officer as the Lieutenant-Governor may from time to time appoint to examine such Natives within such place or town; or, if no such officer has been appointed, before such medical officer as the Magistrate may direct.

The medical officer shall thereupon examine the Native brought by the recruiter, and shall reject him or shall certify in writing that he is in a fit state of health and able in point of physical condition to journey to and work for hire in a labour-district.

If certified to be fit, Native to be taken to Magistrate.

43. Every such Native who is certified by the medical officer, as required in the last preceding section, to be fit to emigrate to a labour-district, shall thereupon appear with the recruiter before the Magistrate of the district or division of the district within which the place or town where the engagement was entered into is situate.

The recruiter shall at the same time produce his license to the Magistrate.

Magistrate to examine Native, and if satisfied, to register particulars.

On the appearance of such Native the Magistrate, after inspecting the medical certificate, shall examine him with reference to his engagement, and if it appears that he understands such engagement as regards the locality, period and nature of the service, the rate of wages, and the price at which rice is to be supplied, and that he is willing to fulfil the same, the Magistrate shall register in a book to be kept for the purpose—

(1) the name, the name of the father, and the age, of such Native:

(2) the name of the village or place of which such Native is a resident:

(3) the contractor's depôt to which it is intended that he shall proceed:

(4) the labour-district to which he is engaged to proceed:

(5) the period of service:

(6) the rate of wages, and the price at which rice is to be supplied.

If dissatisfied, will reject.

If the Magistrate thinks that such Native does not understand the nature of the engagement, or has been induced to enter into the engagement by fraud or misrepresentation, or if the recruiter shall not have produced his license, he shall refuse to register such Native.

Copy of registration to be given to emigrant.

44. A certified copy of his registration, written on substantial paper, shall be furnished by the Magistrate to each emigrant.

Documents to be sent to superintendent.

45. A certified copy of every such registration, and the original certificate of the medical officer, shall be forthwith forwarded by the Magistrate to the superintendent of emigration.

Fee for registration.

46. For the registration of every such Native, the recruiter shall pay to the registering officer a fee not exceeding one rupee and eight annas.

Provisions applied to Natives recruited in Calcutta.

47. The provisions of the five preceding sections shall be applicable to all Natives of India engaged by recruiters within the town of Calcutta, except that they shall be brought for registration before the superintendent of emigration therein.

Natives recruited in districts not in Bengal.

48. Every Native of India who shall be brought or induced to come by any recruiter from any Province or district not under the control of the Lieutenant-Governor of Bengal, for the purpose of entering into a contract in a district under such control, shall be presented by the recruiter for medical examination and registry under the provisions of this chapter at some place within the district under the control of the Lieutenant-Governor, into which he shall first come, or at Calcutta, if he shall first come there.

Penalty for forwarding Natives without registration.

49. Every recruiter who forwards or accompanies any Native of India from the district or division of the district within which the place or town where he has been recruited is situate, or into which, under the last preceding section, he has first come, or who induces any such Native to leave such district or division of district for the purpose of proceeding to a labour-district, without being duly registered as above required; or who forwards, accompanies or induces any such Native to proceed to any depôt other than a depôt in a place approved of under section 35, shall, on conviction by a Magistrate, be punished in respect of every such Native so forwarded, accompanied or induced, with a fine which may extend to fifty rupees, or with imprisonment, simple or rigorous, for a term which may extend to one month.

Recruiter to accompany emigrants to depôt, or depute person approved by Magistrate.

50. All emigrants proceeding to a depôt shall be accompanied throughout the journey by the recruiter himself, or by a competent person appointed by him with the approval of the Magistrate by whom such emigrants have been registered.

The Magistrate shall give to the person so appointed a certificate under his signature stating that he has been appointed for the journey to the depôt.

Recruiter to provide food and lodging for emigrants on journey.

51. Every recruiter by whom any emigrant is forwarded or accompanied to a depôt shall, throughout the journey, provide such emigrant with proper and sufficient food and lodging.

If it shall appear to a Magistrate, on the complaint of any such emigrant at any place on the journey, that the recruiter has failed to provide him with proper and sufficient food and lodging at such place, such recruiter shall, on

conviction by such Magistrate, be punished with fine which may extend to fifty rupees.

The whole or any portion of such fine may be awarded to such emigrant as compensation.

If the fine be not paid within twenty-four hours, the recruiter shall be punished with imprisonment, simple or rigorous, which may extend to one month.

Chapter VI.—Depôt.

Contractor to report arrival of emigrants.

52. Within twenty-four hours after the arrival at any depôt of any emigrant, the contractor by whom such depôt is maintained shall give to the superintendent of emigration a notice in writing of such arrival, which notice shall be in such form and shall contain such particulars as the superintendent shall prescribe.

Emigrants to be inspected by medical inspector immediately on arrival.

53. The copy of the registration and the medical certificate of every emigrant received by the superintendent as provided in section 45 shall be shown to the medical inspector; and all emigrants shall be inspected by the medical inspector at the depôt.

If he be satisfied that an emigrant is in a fit state of health and able in point of physical condition to journey to and labour in a labour-district, he shall countersign the copy of the registration; if he be not satisfied thereof, he shall give a certificate to that effect to the superintendent.

Medical inspector to examine emigrant if medical certificate not given.

The medical inspector shall examine any emigrant in regard to whom a medical certificate is not forthcoming, and shall certify whether such emigrant is, in his opinion, in a fit state of health and able in point of physical condition to journey to and work for hire in a labour-district; and if satisfied of his fitness, he shall countersign the copy of the registration.

Emigrant rejected by medical inspector to be sent back.

54. If the medical inspector shall certify that any emigrant so examined is in such a state of health that his journey to a labour-district would be dangerous to himself or to others, or that he is unfit for labour in a labour-district, the superintendent may order the contractor, or the garden-sardár if such emigrant has been forwarded or brought to the depôt by a garden-sardár, to pay to him a sum of money sufficient to enable him to return to the place at which he was engaged:

Provided that any such person who from his state of health is, in the opinion of the medical inspector, unfit to undertake the journey back to the place where he was engaged, shall, until he is reported by the medical inspector fit to undertake such journey, be fed, clothed, lodged and medically attended at the expense of such contractor or of such garden-sardár, as the case may be.

If such contractor or garden-sardár negligently or wilfully omits to provide food, clothing, lodging and medical attendance for such person, the superintendent may order such contractor or garden-sardár to pay to him a sum of money by way of compensation.

Family of detained emigrant may remain with him.

55. Whenever an emigrant remains behind or is detained under the provisions of the last preceding section, it shall be optional with the wife or husband of such emigrant, as the case may be, to remain with the emigrant so remaining behind or detained.

If there are any children, they shall also be allowed to remain behind with the father or mother.

Emigrant ill-treated during journey may obtain compensation.

56. If, upon the arrival of any emigrant at a depôt, it shall appear to the superintendent of emigration, on the complaint of such emigrant, that he has suffered any ill-treatment on the journey, or that the recruiter or garden-sardár, as the case may be, has failed to provide him with proper and sufficient food and lodging, the superintendent may cause him to be removed from the depôt, and may order the contractor or garden-sardár, for or by whom he shall have been taken to such depôt, to pay to him a sum of money by way of compensation, or sufficient to enable him to return to the place at which he was engaged; and in such latter case he shall not be bound to execute any contract.

Contract to be explained by superintendent and executed in duplicate, and abstract to be entered in book to be kept by superintendent.

57. Every emigrant who is passed by the medical inspector as in a fit state of health, and able in point of physical condition to journey to and labour in a labour-district, shall execute a contract with the employer with whom he intends to contract before he is forwarded from the depôt.

Such contract shall, in the presence of the superintendent of emigration, be signed in duplicate both by the emigrant and by the employer with whom he intends to contract, or his agent.

The contract may be written or printed, or partly written and partly printed, and shall be on substantial paper.

Before the emigrant signs the contract, the superintendent shall personally explain it to him, and shall attest such contract and certify at the foot thereof that he has personally explained the same.

An abstract of every such contract shall be entered in a register to be kept by the superintendent for the purpose, and after such contract has been so entered, one of the duplicates shall be given to the emigrant, and the other to the person with whom he has contracted or his agent.

The superintendent shall, within seven days after the entry of such abstract, send by post a certified copy of every such abstract to the Magistrate of the district in which the service under such contract is agreed to be performed.

Penalty on emigrant refusing to execute contract.

58. Any emigrant who, without reasonable cause, refuses to execute such contract in conformity with the engagement previously registered shall, on conviction by a Magistrate, be punished with a fine equal in amount to the entire cost incurred by, or on behalf of, the contractor or the garden-sardár, as the case may be, in engaging, registering and bringing or forwarding him to the depôt, and shall forthwith be discharged from such depôt.

Every fine levied under the provisions of this section shall be paid to the contractor or garden-sardár on whose behalf or by whom the person from whom such fine shall have been levied was originally registered.

Penalty on contractor failing to provide contract.

59. If within thirty days after the arrival of any emigrant at a depôt, the contractor, or, if he has been engaged by a garden-sardár, the garden-sardár on whose behalf or by whom such emigrant has been registered, shall not tender to him for execution such contract as under the provisions of the preceding sections he would be bound to execute, the superintendent may order the contractor or the garden-sardár, as the case may be, to pay to him a sum of money sufficient to enable him to return to the place where he was engaged, and in such case such emigrant shall not be bound to execute any contract.

Money ordered to be paid by superintendent may be advanced by him and recovered.

60. If any contractor or garden-sardár who may be ordered, under the provisions of sections 54, 56 and 59, to pay any sum of money, shall for twenty-four hours omit to comply with such order, it shall be lawful for the superintendent to advance the amount so ordered to be paid to the person named in such order, and to recover from such contractor or garden-sardár or his employer the sum so advanced, with interest at the rate of twelve per centum per annum from the date of such advance.

Chapter VII.—Transport.

Emigrant to be forwarded to labour-district with permission of superintendent.

61. When the contract of any emigrant has been executed under the provisions of this Act, he may, with the permission of the superintendent of emigration, be forwarded to the labour-district in which he has engaged to labour by the contractor in whose depôt he is residing, or by the employer with whom he has made the contract, or his agent.

To be furnished with pass.

Every such emigrant shall be furnished with a pass in the form set forth in schedule (E) annexed to this Act, signed by the contractor or garden-sardár, as the case may be, and countersigned by the superintendent of emigration, and by the embarkation-agent at the place at which the labourer embarks, specifying his name and age, the name of his father, the place of his destination, and the name of his employer.

Every such pass shall be entered in a book to be kept by the embarkation-agent, and shall be dated and numbered in a consecutive series.

Vessel to be licensed to

62. It shall not be lawful for the master of any vessel, without a license granted by the embarkation-agent within the local limits of whose authority

carry emigrants.

any emigrant may embark, to convey more than twenty emigrants at any one time to or towards any labour-district.

Fee for license.

A fee not exceeding four annas for every emigrant shall be paid for every such license, and it shall be in the discretion of the embarkation-agent to whom application is made to grant or withhold any such license.

Such license shall be in force for only one voyage to one or more of the labour-districts, and shall specify the number of emigrants which the vessel is licensed to carry and the number of persons (including the crew) other than emigrants whom such vessel is licensed to carry.

Penalty for carrying without license.

The master of any vessel, in which at one time more than twenty emigrants are conveyed without a license having been obtained as aforesaid, shall, on conviction by a Magistrate, be punished with fine.[a]

Penalty for delay in despatching vessel.

63. Such license shall state the date on which the vessel shall leave the place at which the emigrants are to embark.

If the vessel does not leave such place and proceed on its voyage within twenty-four hours of the day fixed, the master thereof shall, on conviction by a Magistrate, be punished with fine for each day during which the vessel remains at or within five miles of the place of embarkation:

Provided that such penalty shall not be incurred if the delay is caused by, or with the sanction of, the embarkation-agent, or by any casualty incidental to or attending navigation, or is due to other reasonable and sufficient cause.

Fraudulent alteration of vessel after grant of certificate.

64. If the master of any vessel, after having obtained a license as aforesaid, fraudulently does or suffers to be done any act or thing whereby the state of the vessel is altered, so that such vessel is unfit for the accommodation of the number of emigrants mentioned in such license, such master shall, on conviction by a Magistrate, be punished with fine.

Penalty for receiving on board more passengers than number specified in license.

65. The master of any vessel licensed to carry emigrants, who receives on board his vessel a greater number of emigrants or other persons than the number specified in his license, shall, on conviction by a Magistrate, be punished with a fine for every emigrant or other person so received in excess of the licensed number.

Two children under ten counted as one person.

66. In computing under this Act the number of persons on board of any vessel, two children under the age of ten years shall be reckoned as one person only.

Master not to embark emigrants on vessel carrying more than

67. It shall not be lawful for the master of any vessel, whether licensed or not, to embark any emigrants on board his vessel for conveyance to, or towards, a labour-district, if the total number of persons to be carried by such

[a] See *Calcutta Gazette*, 20th May, 1874, Part I, p. 883.

vessel (exclusive of the crew, and of any garden-sardár or other person accompanying the emigrants) exceeds twenty, unless the emigrants are furnished with a pass by the embarkation-agent in the form set out in schedule (E) of this Act. twenty emigrants without pass.

The master shall, on conviction by a Magistrate, be punished with a fine not exceeding ten rupees for every emigrant illegally taken on board. Punishment.

The embarkation-agent shall not grant any such pass without a certificate from the medical inspector that such emigrants may be allowed to embark without danger to the health of other persons on board the vessel. No pass without certificate of medical inspector.

68. The master of a licensed vessel carrying emigrants shall not proceed on the voyage towards a labour-district until he has received from the embarkation-agent a list of all the emigrants on board. Master not to proceed without list of emigrants on board.

Such list shall contain all the particulars noted in the pass of each such emigrant; but if all the emigrants whose names are entered in any one pass embark on board the same vessel, it shall be sufficient if the number and date of such pass are noted in the list. Contents of list.

The embarkation-agent and the master of the vessel shall together personally ascertain that the number of emigrants on board corresponds with the number entered in such list. To be compared with emigrants by agent and master.

If the master of such vessel allows any emigrant not entered in such list to proceed in the vessel, he shall, on conviction by a Magistrate, be punished with fine. Penalty for admitting emigrants not in list.

The embarkation-agent shall send a copy of the said list or an extract from it to the Magistrate of the labour-district to which any of the emigrants are proceeding. Copy of list to be sent to Magistrate.

69. There shall be laden under the supervision of the embarkation-agent on board of any licensed vessel carrying emigrants to or towards any labour-district, at the time of the embarkation of such emigrants, such supplies of provisions, clothing, medical drugs and other stores, and such medical and other officers, and such cooks and other attendants, as may be required under the rules made by the Lieutenant-Governor under the authority of this Act. Provisions, medical and other stores, medical officers, cooks, &c.

The master of any such vessel who shall commence the voyage without having on board such supplies of provisions, clothing, medical drugs and other stores, and such medical and other officers, and such cooks and other attendants, as may be required as aforesaid, shall, on conviction by a Magistrate, be punished with imprisonment, simple or rigorous, for a term which may extend to three months, or with fine which may extend to five hundred rupees. Penalty if master proceeds without.

70. No vessel carrying two hundred emigrants shall be allowed to proceed on the voyage unless a medical officer who is a licentiate in medicine, or who is declared to be qualified for such charge by order of the Lieutenant-Governor, has been appointed to the charge of such emigrants. Vessel carrying 200 emigrants must carry qualified medical officer.

And any master who shall commence the voyage without having on board such medical officer as aforesaid shall, on conviction by a Magistrate, be punished with a fine not exceeding five hundred rupees, and, in default of payment, imprisonment for a term not exceeding three months.

Penalty for allowing emigrant finally to leave vessel at place other than that mentioned in pass.

71. If the master of any licensed vessel carrying emigrants shall, save as hereinafter is provided, cause or permit any emigrant whose contract has been executed under the provisions of this Act finally to leave such vessel at any place other than that named as the destination of such emigrant in his pass, such master shall, on conviction by a Magistrate, be punished with fine for each such offence :

Provided always, that this section shall not be deemed to prevent the master of any vessel from permitting emigrants to disembark at any place or places on the voyage so long as such disembarkation is not intended or known to be likely to be final; nor to prevent the final disembarkation of any emigrants in case of accident or other unavoidable necessity, if such accident or necessity be forthwith reported to the embarkation-agent by whom the license of such vessel was granted, and to the nearest Magistrate in the district within which such accident may occur or necessity arise.

Master to report arrival of emigrants at every intermediate station where there is a Magistrate.

72. Every licensed vessel carrying emigrants shall stop at every place in which a Magistrate is stationed, intermediate between the places of embarkation and disembarkation of such emigrants, and shall remain during not less than six hours of daylight unless the Magistrate shall permit an earlier departure.

The master of every such vessel shall, immediately on arrival, report to the Magistrate or such officer as may have been deputed by the Magistrate in that behalf under the provisions of section 89, the number of emigrants on board, the general state of their health, and the number of deaths (if any) which have occurred among the persons who embarked on such vessel.

Any master who wilfully omits to comply with the provisions of this section shall, on conviction, be punished with fine.

Magistrate may at any time inspect vessel.

73. A Magistrate may at any time go on board of any licensed vessel carrying emigrants while within the limits of his jurisdiction, and may inspect the vessel, the emigrants and all persons on board.

Master bound to give all information required.

The master and officers of such vessel shall be bound to afford to such Magistrate all reasonable facility for such inspection, and to give him all such information respecting the emigrants or other persons on board as may be reasonably required, and respecting any deaths which may have occurred on board, and respecting any other facts which may affect the health of the emigrants.

Any master or other officer who wilfully omits to give any such information to such Magistrate shall, on conviction, be punished with fine. Penalty for omission.

74. On the arrival of any licensed vessel, or at any time while it is within the limits of his jurisdiction, the Magistrate may regulate the communication between such vessel and the land, and may prohibit all persons from leaving the vessel and all persons on land from proceeding on board. Magistrate may regulate communication between vessel and land.

And any person not complying with any order made under this section shall, on conviction, be punished with fine.

75. A Magistrate may, if he has reason to believe that any emigrants on board any licensed vessel within the limits of his jurisdiction are, or are likely to be, affected with any infectious or contagious disease, detain such vessel, and require the civil medical officer of the district or other qualified medical officer to inspect the emigrants on board such vessel, and to report on their health, and whether any or what measures are requisite for the removal or prevention of such disease. Magistrate may detain vessel for inspection and for removal of disease, and may detain sick emigrants.

After the submission of such report, the Magistrate may detain the vessel for a further period not exceeding five days for the purpose of carrying out such measures, if any, recommended by the medical officer in his report, and he may further detain at such station for medical treatment any emigrant who is affected with any infectious or contagious disease.

76. If it appears to a Magistrate expedient that any emigrant whose contract has been executed under the provisions of this Act should not be allowed to proceed towards a labour-district in consequence of ill health, he may order the detention of such emigrant; and in such case he shall cause all necessary arrangements to be made for the accommodation, support and medical treatment of such emigrant. Magistrate may detain sick emigrants, and arrange for accommodation and treatment.

77. All expenses incurred under section 76 by a Magistrate or other officer deputed by him under the provisions of section 89, in respect of any emigrant so detained, shall, with interest at six per centum per annum, be recoverable by him from the contractor by whom the emigrant has been engaged or forwarded; or in the case of an emigrant engaged by a garden-sardár, from the employer from whom such garden-sardár received his certificate. Expenses how recovered.

78. If it appears to a Magistrate that the health of any emigrant (other than an emigrant mentioned in the two last preceding sections) is such that he cannot proceed without endangering the health of those on board, he may order the detention of such emigrant. Detention of emigrants having infectious diseases.

79. If it appears to a Magistrate making an inspection of any licensed vessel that the number of emigrants on board is larger than the number specified in the license, he may remove the excess number and detain them until another opportunity of forwarding them to their destination is found. Measures to be taken if excess number of emigrants found on board.

The necessary expense of maintaining such emigrants, and of conveying them to their destination, shall be recoverable by such Magistrate or other officer who may have been deputed as aforesaid, from the master of such vessel.

Infraction of Act and rules to be reported.

80. In any case in which, on making an inspection of a licensed vessel, a Magistrate shall find that any of the provisions of this Act or of any rule made by the Lieutenant-Governor under the authority of this Act have not been complied with, he shall report the same to the embarkation-agent by whom the license to carry the emigrants was granted to such vessel; and if the circumstances of the case are such as in such Magistrate's opinion make it necessary so to do, he may detain the vessel until the provisions of this Act or any rule made by the Lieutenant-Governor as aforesaid have been complied with, so far as to make it possible for the voyage to be further prosecuted with safety and reasonable comfort to the emigrants.

Vessel may be detained.

On arrival of licensed vessel at place of disembarkation, master to give information to Magistrate.

81. Whenever any licensed vessel carrying emigrants arrives at a civil station at which it is intended that any of such emigrants shall disembark, the master shall immediately give notice of the arrival to the Magistrate or such officer as may have been deputed by the Magistrate in that behalf under the provisions of section 89, and shall forward to him at the same time the list furnished to him by the embarkation-agent under the provisions of section 68, or a copy of so much of the said list as relates to the emigrants who are to disembark.

The master shall not permit any emigrants whose contracts have been executed under the provisions of this Act to leave the vessel without the order of the Magistrate.

Magistrate to send information to employer or agent;

Immediately on the receipt of such notice the Magistrate shall send information of the arrival of the emigrants to the employers with whom they have contracted, or to the agents of such persons.

and direct medical inspection.

And he shall at the same time direct the civil medical officer of the tation or other qualified medical officer to go on board such vessel and to inspect such emigrants.

Report of medical inspection.

Such medical officer shall, without delay, make a careful inspection of all such emigrants; and, after making such inspection, shall prepare and sign a report, in which he shall certify the state of health and general condition of each emigrant so inspected.

Sick emigrants to be detained at station.

82. The Magistrate shall detain at the station for medical treatment any emigrant whose contract has been executed under the provisions of this Act, who is, in the opinion of the medical officer, in such a state of health as to be unfit to proceed to the place at which he has contracted to labour.

In such case he shall cause all necessary arrangements to be made for the accommodation, support and medical treatment of such emigrant, and all

expenses so incurred by the Magistrate in respect of any emigrant so detained shall, with interest at six per centum per annum, be recoverable by him from the employer with whom such emigrant has contracted.

If necessary provision made for support and lodging, emigrants to be made over to employer or agent.

83. The Magistrate shall also ascertain whether reasonable provision has been made for the support and lodging of emigrants whose contracts have been executed under the provisions of this Act, from the time of their disembarkation till they reach their final destination.

If he is satisfied that such reasonable provision has been made, the employer with whom such emigrants have contracted or his agent shall forthwith take charge of such emigrants, except those, if any, detained under the provisions of the last preceding section.

If not made, or if employer or agent not present, Magistrate to make arrangements.

Expenses recoverable from employers.

But if such reasonable provision has not been made, or if the employer or his agent shall not be present at the place of disembarkation, the Magistrate shall order such arrangements to be made, and incur such expenses as under the circumstances may seem to him necessary; and the amount of expenses so incurred by him in the disembarkation, or in respect of the food, lodging, medicines, hospital-attendance or clothing of the labourers, shall, with interest at the rate of twelve per centum per annum, be recoverable by him from the employer with whom such emigrants have contracted.

If emigrants to disembark at place other than civil station, medical inspection to be made at civil station last preceding.

84. If it is intended that emigrants whose contracts have been executed under the provisions of this Act on board of any licensed vessel shall disembark at a place which is not a civil station, the master of such vessel shall report the arrival, as required in section 81, to the Magistrate or such officer as may have been deputed by the Magistrate in that behalf under the provisions of section 89, at the last civil station which such vessel shall pass before arriving at the said place of disembarkation, and shall not proceed on his voyage until the medical inspection of such emigrants has been made as provided in the said section.

The master shall not permit any such emigrants to leave the vessel without the order of the Magistrate.

Immediately on the receipt of such notice, the Magistrate shall send information of the arrival of the emigrants to the employers with whom they have contracted, or to the agents of such persons.

When such inspection has been made, the Magistrate shall, without delay, authorize the master to proceed on his voyage, provided that he may, if he thinks fit, detain any emigrant who is unfit to proceed under the provisions of section 76.

Disembarkation at such place.

85. On the arrival of any licensed vessel at a place of disembarkation which is not a civil station, emigrants whose contracts have been executed under the provisions of this Act, who are to disembark at such place, shall, in case the employers with whom they have contracted to labour, or the agents of such persons, be present, be disembarked and given in charge to such employers or agents:

If necessary provision not made, emigrants to be carried on to next station.

Provided that in case the medical officer in charge of such emigrants, if there be any such medical officer, and if there be not, then the master of the vessel in which such emigrants have been conveyed, shall be of opinion that any of such emigrants are in such a state of health as to be unfit to proceed to the places where they have respectively contracted to labour, or that reasonable provision for the support and lodging of such emigrants from the time of their disembarkation till they reach their final destination has not been made, or in case the employers with whom such emigrants have contracted to labour, or the agents of such persons, shall not be present at the place of disembarkation, then and in every such case the emigrants so unfit to proceed, or for whose support reasonable provision has not been made, or whose employers may not be present personally or by their agents, shall be further conveyed in the vessel to the next civil station, and shall be there disembarked, and the place at which they shall be so disembarked shall, for the purposes of this Act, be deemed to be their place of disembarkation.

Family of detained emigrant may remain with him.

86. Whenever an emigrant is detained under the provisions of sections 76, 82 or 84, or is further conveyed under the provisions of section 85, it shall be optional with the wife or husband of such emigrant, as the case may be, to remain with the emigrant so detained, or to be taken forward along with the emigrant so further conveyed.

If there are any children, they shall also be allowed to remain, or be taken forward, with the father or mother.

Particulars to be entered in reports of medical officers.

87. Every medical officer who is required to make a report under the provisions of this chapter shall submit such report to the Magistrate, and shall enter therein the name and age of each emigrant, the name of his father, the place of his destination, and the name of his employer, as set forth in the list prepared by the embarkation-agent under the provisions of section 68.

Magistrate to report arrival of all emigrants, and all proceedings, to superintendent of emigration;

88. The Magistrate or other officer deputed by him under the provisions of section 89 shall make a detailed report to the superintendent of emigration of the arrival of all emigrants carried in a licensed vessel, and of all proceedings taken and orders passed by him under the provisions of this chapter, and shall forward with such report a copy of every report made to him by a medical officer relating to emigrants proceeding to a labour-district.

He shall also forward to the superintendent any observations which he or the medical officer may think fit to make in regard to the state of health and general condition of the emigrants.

in certain cases through embarkation-agent.

Whenever such reports or observations relate to emigrants carried in a licensed vessel, he shall forward them to the embarkation-agent by whom such emigrants were despatched, and the agent shall transmit them to the superintendent with any remarks which he may desire to record.

Magistrate may depute subordinate Magistrate to discharge his functions.

89. The Magistrate of a district or of a division of a district, may depute any subordinate Magistrate to exercise the powers and authorities conferred, and perform the duties imposed, on a Magistrate under the provisions of sections 72, 73, 74, 75, 76, 78, 79, 80, 81, 82, 83, 84 and 88.

Penalty, if master or medical officer neglects to enforce rules.

90. Every master of a vessel, or medical officer in charge of emigrants on board of any vessel carrying emigrants, who shall wilfully and knowingly neglect or refuse to obey or to enforce on board of such vessel any rule which may from time to time be prescribed by the Lieutenant-Governor under the authority of this Act, shall, on conviction by a Magistrate, be punished with fine.

Jurisdiction, if offence created by Act is committed on board.

91. Any offence against any of the provisions of this chapter or of any rule made by the Lieutenant-Governor under the authority of this Act, committed on board of any vessel, may be tried by any Magistrate exercising jurisdiction in any place at which emigrants may have embarked on board such vessel, or may have disembarked from such vessel, or in any place in which such vessel may be detained under the provisions of this Act.

Punishment of emigrant for desertion.

92. Any emigrant whose contract has been executed under the provisions of this Act, who deserts while in transit from the district in which he has been registered to the district in which he has engaged to labour, may, on conviction by a Magistrate, be punished with imprisonment, simple or rigorous, for a period which may extend to three months.

Such offence may be inquired into and tried in the district in which such emigrant is apprehended, or in the district in which the desertion took place, or in the district in which he was registered.

Provisions to apply to children, &c., accompanying emigrants.

93. The provisions with regard to engaged Natives of India and emigrants contained in sections 27, 29, 30, 31, 51, 54, 56, 69, 75, 76, 80, 82, 83 and 84 of this Act shall be applicable to such women, children and aged relatives of such Natives and emigrants as may, with the consent of a contractor, recruiter or garden-sardar, as the case may be, and with the written permission of the registering Magistrate or superintendent, accompany them without having entered into an engagement.

Provisions not to apply to domestic servants, &c.

94. The provisions of this chapter shall not apply to domestic servants, or to any person proceeding alone or accompanied by his wife and family only.

PART III.—Labour Districts.[a]

Chapter VIII.—Inland Labour Transport Fund.

Annual rate payable by employers.

95. The Lieutenant-Governor may from time to time, by order published in the *Calcutta Gazette*, fix a yearly rate, not exceeding one rupee and eight annas per labourer, for the purpose of defraying the expense of carrying out

[a] See Bengal Act No. II of 1878, s. 4.

the purposes of this Act; and the sum or rate so fixed shall be paid half-yearly by each employer on the last day of July and the last day of January in each year for each labourer entered in the last return of labourers furnished (as is hereinafter provided) by such employer before such date.

Payment of rate how enforced.

96. If any employer shall fail to comply with the provisions of the last preceding section, it shall be the duty of the Magistrate to notify such default to him; and if, within one month from the receipt of such notification, or such longer period as may, under special circumstances, appear to the Magistrate reasonable, such employer shall not so comply, the Magistrate shall, by distress and sale of any moveable property which may be found in the possession or under the charge of such employer, levy the sum so payable.

If there shall be no such moveable property, or insufficient moveable property, so found, the amount shall be recoverable by a civil regular suit from the person for whose benefit the labourers in respect of whom the same may be payable shall have been employed.

In every such suit the Government shall be named as plaintiff, and the cause of action shall be taken to have arisen within the limits of the jurisdiction of any Court having jurisdiction at any place where any such labourers may have been employed by such employer.

Fines, fees and rates to be credited to "Inland Labour Transport Fund."

97. Subject to the powers conferred on a Magistrate by this Act or by the Code of Criminal Procedure, of awarding fines in whole or in part as compensation to or for the benefit of any complainant or other person, all fines, fees and rates levied and paid under this Act shall be credited to a fund which shall be called the "Inland Labour Transport Fund," and such fund shall be at the disposal of the Lieutenant-Governor for defraying the expenses of carrying out the purposes of this Act.

Chapter IX.—Inspectors' Returns and Magistrates' Inspections.

Appointment of inspectors and assistant inspectors.

98. The Lieutenant-Governor may appoint in any labour-district so many inspectors and assistant inspectors of labourers as he may think proper, and may define, by notification in the *Calcutta Gazette*, the local limits within which each such inspector and assistant inspector shall exercise the powers and authorities conferred, and perform the duties imposed, on him by this Act.

Such inspectors and assistant inspectors may be by the said Lieutenant-Governor vested with all or any of the powers of a Magistrate.

Establishment.

99. The Lieutenant-Governor may authorize inspectors and assistant inspectors to entertain such establishment as he may think fit.

Duty of assistant inspector.

An assistant inspector shall perform all such duties and exercise all such powers of an inspector as he is authorized in writing by the inspector to perform or exercise.

100. Every employer shall, on or before the last day of January and the last day of July in each and every year, make out in writing, and deliver to the inspector of labourers, a return of the number of all labourers (as well labourers defined by this Act as others) employed by such employer on the last day of the preceding month, and return of the sickness and mortality among the labourers during the preceding six months. Half-yearly report of labourers employed, of their state of health, and o mortality.

Such returns shall be kept separate with regard to each class of labourers as above-mentioned, and, in the case of labourers as defined by this Act, the return of labourers employed shall specify the date on which the contract of each labourer commenced, and the period of service contracted for. Separate returns of each class of labourers to be kept.

Copies of such returns shall be entered in a book to be kept by the employer at his place of business or on his estate. Copies to be kept.

101. If any labourer shall die, desert, complete his contract or obtain a release therefrom during the six months preceding any such return as in the last preceding section is mentioned, the fact of such death, desertion, completion of contract or release shall be entered, in the book to be kept as aforesaid by the employer, opposite the name of such labourer. Entry to be made of deatl desertion, &c

102. On the arrival of any labourer, as defined by this Act, on the estate of his employer, the name and description of such labourer shall be entered in the book to be kept as aforesaid by the employer, and in like manner the name and description of every person who shall contract to labour otherwise than under the provisions of this Act shall be so entered. Entry to be made of name and description of labourer.

Such book shall be open to the inspector of labourers, who shall have powe to muster all labourers and other persons lastly hereinbefore mentioned; and t verify the accuracy of the entries in such book.

103. If any employer shall refuse or wilfully omit duly to send in any such return, or shall knowingly send in an incorrect return, such employer shall, on conviction by a Magistrate, be punished with fine. Penalty for omission to report or for incorrect report.

104. Every inspector of labourers shall once within each of such periods as may be fixed for such purpose by the Lieutenant-Governor, visit all lands within the limits of his authority on which there shall be employed any labourers, and inspect every hospital, tent, camp or building in any way used by any such labourers, and investigate the condition of the labourers employed; and for such purpose the inspector may require that any labourer shall be brought before him with his contract, and may make such inquiries as may to him seem proper. Periodical inspection of labourers to be made by inspector.

Every such inspector shall keep books, in which from time to time shall be entered the number of labourers then under contract with each employer, the number who shall then be sick or missing, or who shall have complained of ill-treatment, the particulars of such complaints, and such other particulars Books to be kept by inspector.

regarding the labourers as the Lieutenant-Governor shall from time to time direct.

Annual report.

Each inspector shall annually make a written report to the Lieutenant-Governor through the Commissioner of the division of the aforesaid particulars: and every such report as regards the labourers under any particular employer shall, at all reasonable times, be open to the inspection of such employer or any person by him appointed in writing in that behalf, and the person so inspecting shall be entitled to take a copy of the report so far as it relates to such labourers.

Such report open to inspection by employer.

Magistrate may at any time inspect labourers' buildings used by them, &c.

105. It shall be lawful for any Magistrate exercising jurisdiction in the district, or any person authorized by him in writing in that behalf, at any time to enter and inspect any hospital, tent, camp or building, wholly or partially used by or for labourers, and to require that any labourer shall be brought before him with his contract, and to make any inquiries which he may think proper touching the condition or treatment of any labourer.

Penalty for obstructing inspection or inquiry.

If any employer, or other person acting for or under such employer, wilfully obstructs or impedes any entry, inspection or inquiry made under either of the two preceding sections, such employer or other person as aforesaid shall, on conviction by a Magistrate, be punished with fine not exceeding five hundred rupees for each such offence.

Chapter X.—Regulation of Labour.

Schedule of daily tasks to be framed.

106. Every employer shall, from time to time, with the sanction of the inspector previously obtained, fix the daily tasks to be executed by the labourers employed by such employer, and shall frame a schedule of such daily tasks, and publish the same by posting a copy thereof in the Bengálí language upon the door of each place of payment of the labourers employed by such employer, and by sending a copy thereof in the English language to the inspector.

Maximum amount of labour.

107. No labourer shall be bound to work under his contract more than six days in one week, or more than six hours consecutively, or more than nine hours on any one day.

Inspector may submit schedule to committee.

108. If at any time the inspector considers such schedule of daily tasks or any part thereof to be unreasonable, he shall refer the consideration of such schedule to a committee consisting of the inspector, of some employer to be nominated by him, and of some person to be nominated by the employer whose schedule is to be considered, or, on his default, by the inspector.

Committee to revise schedule.

109. In case the said committee or the majority in number thereof are of opinion that the daily tasks in such schedule contained, or any of them, are unreasonable, they shall modify and reduce such daily tasks in such manner as

they shall deem reasonable, and such schedule so modified shall be published in manner aforesaid, and every schedule published as aforesaid shall have effect as between the employer and labourers in substitution for any former schedule.

Chapter XI.—Incapacity for Labour.

Inspector may suspend contract of labourer temporarily unfitted for labour.

110. It shall be lawful for the inspector of labourers within the local limits of whose authority any labourer may be employed to suspend, for such period as he shall consider advisable, the contract of such labourer, or any particular term thereof, if such labourer shall be, in the judgment of such inspector, temporarily unfitted for the performance thereof by reason of sickness, pregnancy or other sufficient cause:

Provided that every such suspension shall be endorsed by the inspector on the contract:

Provided also that every such labourer shall, during such incapacity, receive such subsistence-money from his employer as shall be considered sufficient by the inspector, and that the time during which the suspension continues shall not be reckoned as part of the term for which the labourer is bound to serve.

Penalty for compelling labourer to perform work for which he is unfit.

111. If it shall be found that any labourer has been compelled to perform any species of labour for which he was at the time unfit, the employer by whom he was so employed shall, on conviction by a Magistrate, be punished with fine.

Discharge of labourers permanently incapacitated.

112. If, in the opinion of the inspector of labourers, any labourer shall be permanently incapacitated for the performance of his contract or any material part thereof, the inspector shall certify to that effect in writing, and deliver such certificate to the employer of such labourer or some one on his behalf, and from the date of such certificate the contract of such labourer shall wholly cease and determine.

The inspector shall make a return of all such cases of determination of contract in his report under section 104.

Every labourer whose contract shall have been determined as aforesaid shall be entitled to receive from his employer such sum, not exceeding three months' wages, as the inspector may award, and such sum shall be recoverable before a Magistrate in the manner hereinafter provided for the recovery of wages.

Chapter XII.—Necessary Provision for Labourers.

Accommodation, water and sanitary arrangements.

113. Whenever any labourers shall be employed in any labour-district, the employer of such labourers shall be bound to provide for them sufficient and proper house-accommodation, water-supply, sanitary arrangements and rice.

Hospital,

114. Every employer shall be bound to provide for his labourers sufficient

medicines &c., to be provided.

hospital-accommodation and such medicines of such quality and description, and according to such scale, as shall from time to time be fixed by the Lieutenant-Governor; and if three hundred or more labourers shall be employed by any employer, it shall be the duty of such employer to place in medical charge of such labourers a medical officer holding a medical diploma as licentiate in medicine from some Indian or European collegiate institution authorized to grant diplomas, or an officer for the time being licensed by the Local Government to act in such medical charge of labourers.

Inquiry whether employer has failed to provide as required by rules.

115. It shall be lawful for any inspector or assistant inspector who is himself a Magistrate to institute within his jurisdiction, on the lands in charge of any employer or at some place within his jurisdiction not more than ten miles distant from such lands, an inquiry whether such employer has provided for his labourers sufficient and proper house-accommodation, water-supply, sanitary arrangements or rice.

On the complaint of any inspector or assistant inspector a similar inquiry may be made by a Magistrate.

Punishment for gross neglect as to house-accommodation, &c.

116. If the employer is convicted of gross neglect in not having provided sufficient and proper house-accommodation, water-supply, sanitary arrangements or rice, such employer shall be punished with a fine not exceeding five hundred rupees.

In any case where a Magistrate shall find that proper or sufficient house-accommodation, water-supply, sanitary arrangement or rice has not been provided, he may order the employer to provide such proper and sufficient house-accommodation, water-supply, sanitary arrangements and rice.

and for wilfully omitting to comply with order of Magistrate in such respect.

If the employer wilfully omits to comply with such order, he shall, on conviction, be punished with a fine not exceeding one hundred rupees a day for every day that such omission continues.

In default of payment by the employer of the last-mentioned fine, the person on whose account such employer has been acting shall be liable to pay the fine.

Penalty for failure to provide hospital-accommodation, &c.

117. Wherever such sufficient hospital-accommodation or such medicines of such quality and description, and according to such scale, or such medical officer as aforesaid, shall not have been provided, the employer or other person through whose wilful default the same shall not have been provided shall, on conviction by a Magistrate, be punished with fine for every week during which any such default continues.

Inspector to report.

Chapter XIII.—Localities unfit for the Residence of Labourers.

118. If an inspector of labourers shall at any time have reason to believe that any estate or portion of an estate situated within the limits of his juris-

diction is by reason of climate, situation or condition, unfit for the residence of labourers, he shall give notice in writing of his opinion to the Magistrate of the district, and such Magistrate shall forthwith summon a committee to inquire into the fitness of such estate or portion thereof for the residence of labourers.

Such committee shall consist of the Magistrate, the inspector of labourers, the medical officer of the district, and one or more employers of labourers, when such persons are available. Magistrate to summon committee.

If the Magistrate is unable to procure the service on such committee of any employer of labourers, he may, with the sanction of the Commissioner of the division, appoint one or more persons whom he may deem qualified.

Such committee shall proceed, with as little delay as possible, to inquire into the healthiness of the estate or portion thereof to which the order appointing the committee has reference, and shall hear such information on the subject as the owner of the estate, or the employer or inspector, may desire to place before it; and if such committee or the major part in number thereof shall be of opinion that such estate or any portion thereof be unfit for the residence of labourers, it shall record a finding to that effect; and the contract of every labourer who shall have contracted to serve on such estate shall thereupon be void as regards such estate or portion of estate as may be found unfit for the residence of labourers: Proceedings of committee. If committee finds it unfit, contract to be void as regards such locality.

Provided that every such contract shall continue valid with regard to any other portion of such estate or to any other estate of the same employer in the same district. Proviso as regards other localities.

119. If it shall at any time appear that the number of labourers (as well labourers defined by this Act as others) who have died on any estate or portion of an estate during the preceding twelve months, bears a larger proportion to the whole number of labourers (as well labourers defined by this Act as others) employed thereon during such period than seven per centum, or if the average annual number of labourers (as well labourers defined by this Act as others) who have died on such estate or portion thereof during the preceding three years bears a larger proportion to the whole number of labourers (as well labourers defined by this Act as others) employed thereon during such period than seven per centum, it shall be lawful for the Lieutenant-Governor to direct the civil medical officer of the district or other qualified medical officer to inquire into and report on the following matters:— Lieutenant-Governor how to proceed if mortality in past year exceeds seven per cent., or if average of three years exceeds seven per cent. Matters to be inquired into.

(1)—the cause or causes of such mortality;

(2)—the want (if any) of due care or precaution and of the adoption proper and available sanitary measures on the part of the owner of such esta or portion thereof or the employer, causing or contributing to such mortality

(3)—the fitness or otherwise of such estate or portion thereof for the residence of labourers and the reasons thereof.

Medical officer to report.

Such medical officer shall proceed with as little delay as possible, and shall hear and record such information on the subject of the several matters aforesaid as the owner of such estate or portion thereof, or the employer or inspector, may desire to place before him, and shall visit and inspect such estate or portion thereof, and shall make his report expressing the reasons of his opinion, and transmit the same with the recorded information and notes of his inspection of such estate or portion thereof to the Lieutenant-Governor.

Lieutenant-Governor may declare estate unfit for residence.

If the Lieutenant-Governor, after perusal and consideration of the said report, information and notes, shall be of opinion that such mortality was caused by the want of due care or precaution and of the adoption of proper and available sanitary measures on the part of the owner of such estate or the employer, and that such estate or portion thereof is unfit for the residence of labourers by reason of the want of due care or precaution, and of the adoption of proper and available sanitary measures on the part of the owner of such estate or portion thereof, or the employer, it shall be lawful for the Lieutenant-Governor to declare in writing that such estate or portion thereof is unfit for the residence of labourers.

Effect of declaration.

Such declaration of the Lieutenant-Governor shall have the same effect as the finding of a committee under the last preceding section.

Penalty on employer permitting labourer to reside in locality declared unfit.

120. Every employer who shall cause or permit any labourer to reside upon any such estate or portion of an estate as under the provisions of either of the two preceding sections may have been found to be unfit for the residence of labourers, shall, on conviction by a Magistrate, be punished with fine:

Provided always, that in case it shall appear to the inspector that any such estate or portion of an estate, or any part of such portion, has become fit for the residence of labourers, he shall, with the sanction of the Magistrate of the district, give under his hand a certificate of such fitness, and no employer shall be liable to fine by reason of his causing or permitting labourers to reside in any place respecting which such certificate of fitness shall have been given.

Chapter XIV.—Offences committed by Labourers.

Penalty on labourer for absenting himself without sufficient cause.

121. Any labourer who shall absent himself from his labour without sufficient cause may, on conviction by a Magistrate, be sentenced to lose all claims to wages or allowances during the period of such absence; and also to forfeit to his employer a sum not exceeding four annas for each day during which such absence shall be continued; and in case such absence shall have exceeded seven days, or in case such labourer shall have been already convicted of the

same offence within a period of three months, such labourer shall be furthermore sentenced to rigorous imprisonment for fourteen days.

Deserter may be apprehended without warrant.

122. If any labourer deserts from his employer's service, and no Magistrate is resident within ten miles of the place where such labourer may be found, such employer or any other person acting in his behalf may, without first procuring a warrant, and without the assistance of any Police-officer (who, nevertheless, shall be bound to give such assistance if called upon to do so), apprehend such labourer:

Provided, nevertheless, that if such labourer be found in the service of another employer, he shall not be arrested without a warrant:

Provided also, that any person who shall apprehend a labourer under the provisions of this section shall without delay give the said labourer in charge at the nearest Police-station, and there enter the charge upon which he shall have apprehended such labourer.

To be taken to nearest Magistrate.

Any labourer so given in charge shall be conveyed without delay to the nearest Magistrate; and if such Magistrate be authorized to deal with the case, he shall himself adjudicate upon the charge; but if not, he shall forward the said labourer under custody to the Magistrate or bench of Magistrates authorized to deal with such case, who shall thereupon adjudicate upon such charge.

Procedure upon complaint of desertion.

Upon complaint made to a Magistrate by an employer or any person acting on his behalf that a labourer has deserted from his employer's service, such Magistrate may issue a summons for the attendance of such labourer, or a warrant for his arrest, and appoint a day for the hearing of the complaint without previously examining the complainant.

Punishment.

Every labourer who deserts from his employer's service shall, on conviction, be punished with rigorous imprisonment which may extend to one month; and every labourer who, after having been convicted of desertion, shall again desert from his employer's service shall, on conviction as aforesaid, be punished with rigorous imprisonment for a period which may extend to two months; and every labourer who, after having been twice convicted of desertion, shall again desert shall, on conviction as aforesaid, be punished with imprisonment, simple or rigorous, which may extend to three months.

Compensation for wrongful arrest.

If it appears to the Magistrate or to the bench of Magistrates adjudicating upon any such charge as is mentioned in this section that such labourer has been apprehended or arrested without sufficient cause, it shall be lawful for such Magistrate or bench of Magistrates to impose a fine not exceeding fifty rupees on the employer at whose instance such labourer has been apprehended or arrested, or to award compensation not exceeding fifty rupees to

such labourer; and such compensation shall be paid by the employer at whose instance such labourer has been apprehended or arrested.

Conviction not to operate as release.

123. On the expiry of any sentence of imprisonment for any offence under this Act, save as is provided in section 124, it shall be the duty of the Magistrate to make over such labourer to any person appointed on the part of his employer to receive charge of him; and no conviction under this Act or imprisonment under such conviction shall, save as is provided in section 124, be held to operate as a release to any labourer from the terms of his contract:

Provided, nevertheless, that the period of imprisonment shall in no case be prolonged by reason of there being no person present on the part of the employer to take charge of the labourer at the expiry of his sentence; but such labourer shall in that case be sent to the principal place of business of such employer, and the expense of such conveyance shall be levied from the employer in the manner provided in section 96.

Cancellation of contract by desertion.

124. Whenever any labourer shall have actually suffered imprisonment amounting in the whole to six months for desertion from his employer's service, it shall be lawful for the inspector, and he is hereby required, to cancel the contract of such labourer, and every such cancellation shall be certified by the inspector on the back of the contract.

Portion of sentence may be cancelled on application of employer.

125. The employer, or any person authorized to act for the employer, of any labourer imprisoned for any offence under this Act, may apply to a Magistrate, at any time previous to the expiry of such sentence, that such labourer be made over to him for the purpose of completing his contract; and such Magistrate may, if he see good cause, make over or forward such labourer to his employer; and in that case such Magistrate shall cancel the remainder of the sentence passed on him, and shall endorse on the contract of such labourer a memorandum signed by him of such cancellation.

Expense of restoring deserting labourer to be paid by employer.

126. Every employer who obtains an order for the return or forwarding of any labourer who has deserted, shall pay the expense incurred in such return or forwarding, and shall, before the order is issued, deposit with the Magistrate such sum as such Magistrate may in his discretion deem to be sufficient for defraying the expense of such return or forwarding.

Time of unlawful absence or imprisonment to be excluded from contract-period.

127. The duration of every unlawful absence from labour, of which any labourer may be convicted, and every sentence of imprisonment for any offence under this Act, shall be endorsed on the contract, at the time of its being passed, by the officer passing it; and no such period of imprisonment or unlawful absence so endorsed shall be reckoned as part of the term for which the labourer is bound to serve, but such term shall extend to such further period as shall be equivalent to the aggregate amount of the imprisonment and unlawful absence so endorsed.

128. Any person who knowingly and wilfully entices away, harbours or employs, or attempts to entice from his employment, any labourer, before such labourer shall have been lawfully released from his contract, shall, on conviction by a Magistrate, be punished with fine, the whole or any portion of which may be awarded to the employer of such labourer. Other person enticing away, harbouring or employing labourer under contract.

Chapter XV.—Complaints made by Labourers.

129. If any labourer states to his employer, or to any person acting for such employer, that he desires to make a complaint to the inspector of labourers of personal ill-usage or breach of any provision of this Act on the part of such employer or other person, the person to whom such statement is made shall, within forty-eight hours, send notice thereof in writing to the inspector, and in default of so doing, such person shall, on conviction by a Magistrate, be punished with fine. Employer to give notice to inspector if labourer wishes to complain of personal ill-usage or breach of contract.

130. Whenever any inspector of labourers receives such notice in writing as aforesaid, or whenever any complaint of personal ill-usage or breach of any provision of this Act as aforesaid, is made to him by any labourer against his employer, or any person acting for such employer, or whenever the inspector has other reasonable grounds for believing that any such personal ill-usage or breach of any provision of this Act as aforesaid has been suffered by a labourer, such inspector shall forthwith, if the place in which such offence has been committed is not situated within the limits of his own authority, give notice thereof in writing to the inspector within the limits of whose authority such place is situated; and if such place be situated within the limits of his own authority, then such inspector shall, so soon as conveniently may be, proceed to some place not more than ten miles from the principal place of business of such employer, and make full inquiry into the matter complained of. Inspector how to proceed on receipt of notice, or if complaint made, or if he has reason to believe that there is ground for complaint.

131. For the purposes of such inquiry, the inspector may summon such labourer and any witnesses. Procedure.

If any employer, or other person acting for or under such employer, in any way wilfully obstructs the service of, or obedience to, such summons; or if the labourer or any witness summoned intentionally omits to attend as required in such summons, he shall, on conviction by a Magistrate, be punished with fine. Penalty for obstructing service of, or disobedience to, summons.

132. If, upon such inquiry made on the complaint of a labourer, the inspector is of opinion that the complaint is untrue or frivolous, he shall enter in his book the particulars of such complaint, and a short statement of the grounds of his opinion respecting it, and shall dismiss the complaint, and in such case shall endorse on the employer's copy of the contract of such complainant the number of days during which such complainant has been absent If complaint is untrue or frivolous.

from work in consequence of such inquiry, and such number of days shall be added to the period of the contract of such complainant.

If complaint is well-founded.

133. If, upon inquiry as aforesaid, the inspector is of opinion that the complaint is well-founded, he shall, if himself a Magistrate, dispose of the case according to due course of law.

If the inspector shall not be a Magistrate, he shall without delay send the complainant and his witnesses to the nearest Magistrate, and such Magistrate shall thereupon dispose of the case according to due course of law.

Power to award arrears of wages due,

and compensation.

134. If, upon the complaint of any labourer, it is proved to the satisfaction of a Magistrate that the wages of such labourer are in arrear for two months, it shall be lawful for the Magistrate to award to such labourer the amount which shall appear to be then due to him; and also, by way of compensation, such further sum, not exceeding that amount, as shall appear to such Magistrate to be just; and in case of default, the Magistrate shall levy the entire sum by distress and sale of any moveable property which may be found in the possession or under the charge of such employer.

Power to cancel contract—if employer is convicted of maltreatment; or

if wages are in arrear for four months; or

if ill-usage is proved;

and to award compensation.

135. If any employer, or any person placed in authority over any labourer by such employer, shall be convicted of any offence causing injury to the person or property of such labourer triable under the Code of Criminal Procedure by the court of session; or if any such employer, or other person as aforesaid, shall be twice convicted of any such offence against such labourer triable under the said Code by a Magistrate; or if it shall be proved before a Magistrate that the wages of such labourer are in arrear to an amount exceeding the total of such labourer's wages for four months; or if a Magistrate shall, on the report of the inspector and after due inquiry upon oath, in the presence of the parties, be satisfied that any labourer has been compelled to perform any labour while he was unfit for it, or has been subjected to ill-usage by such employer, or any other person placed in authority over the labourer by such employer, it shall be lawful for the Magistrate, if he think fit, on the application of the labourer, in each of such cases, to cancel the contract of such labourer, and award to him compensation not exceeding thirty rupees, and every such cancelment shall be certified by the Magistrate on the back of such contract.

Chapter XVI.—Determination of Contract.

Labourer may appear before inspector to register completion of contract.

136. Every labourer who has completed the term of his contract shall be forthwith entitled to appear before the inspector or assistant inspector in order that the completion of his contract may be registe

If an employer detains such labourer after the completion of his contract, or fails to give notice of such completion to the inspector within one month after the date of such completion, such employer shall, on conviction by a Magistrate, be punished with fine. Penalty if employer detains, or omits to report.

137. If any labourer is able and desirous to redeem the unexpired term of his contract of service by payment of a sum equivalent to the value thereof, such labourer may demand to be taken or allowed to go before the inspector of labourers within the local limits of whose authority he may be employed, and on his depositing such sum in the hands of such inspector, such inspector shall give notice to the employer that such labourer requires him within one week to shew cause why the contract of such labourer should not be released; and in case no sufficient cause should be shewn, such inspector shall require the production of the contract of such labourer, and endorse thereon a certificate of release by purchase, and shall hold the sum in deposit on account of the employer of such labourer. Power to redeem contract.

If any employer or other person authorized to act for the employer shall neglect to comply with such demand as aforesaid, such employer or other person as aforesaid shall, on conviction by a Magistrate, be punished with fine.

The value of the unexpired term of contract shall be deemed to be the aggregate amount of one rupee for every month of the unexpired portion of the first year, of three rupees for every such month of the second year, and of five rupees for every such month of the third year, of the original term of the labourer's engagement. Value of unexpired term of contract.

138. Every labourer, the period of whose contract has expired, or whose contract has been rescinded by the mutual consent of the parties thereto, or whose contract has been cancelled or redeemed under the provisions of this Act, shall be entitled to receive forthwith from the inspector a certificate of release in the form set forth in schedule (F) annexed to this Act. Certificate to be given of determination of contract.

SCHEDULE A.

(*See section 15.*)

FORM OF CONTRACT BETWEEN EMIGRANT AND EMPLOYER.

"THIS contract made under Bengal Act VII of 1873, between (*emigrant's name*) of the one part and (*employer's name*) of the other part. Whereas the said (*employer's name*) has promised the said (*emigrant's name*), (hereinafter called 'the emigrant') that, if he the said emigrant do proceed to the district (*name of district*) in (*name of labour-district*) and do remain and labour therein on the estate of the said (*employer's name*), his successors, representatives and

assigns (hereinafter called 'the employer'), he, the said employer, will, from the date of the arrival of the said emigrant on such estate, pay or cause to be paid to the said emigrant rupees as wages for such labour monthly, for years from the date of the arrival of the said emigrant on such estate, and that during such period he, the said employer, will supply or cause to be supplied to the said emigrant rice according to the rules prescribed by the Lieutenant-Governor of Bengal under the said Act at a price not exceeding .

"Now this contract witnesseth that the said emigrant doth hereby, in consideration of the aforesaid promise by the said employer and of the agreement by him hereinafter contained, agree with the said employer that he, the said emigrant, will so soon after the execution of these presents as he shall be required so to do, proceed to the said district (*name of district*) in (*name of labour-district*) and will there remain and labour on the estate of the said employer for a period of years from the date of his, the said emigrant's, arrival on such estate.

"And this contract further witnesseth that the said employer doth hereby, in consideration of the said agreement by the said emigrant, agree with the said emigrant that he the said employer will, with all convenient despatch, after the execution of these presents, convey or cause to be conveyed the said emigrant free of all costs unto the estate of the said employer in the district aforesaid, and will from the date of his, the said emigrant's, arrival on such estate employ the said emigrant as a labourer for the period aforesaid, and will pay or cause to be paid to the said emigrant rupees as wages for such labour monthly, and will supply or cause to be supplied to the said emigrant rice according to the rules prescribed by the Lieutenant-Governor of Bengal under the said Act at a price not exceeding . In witness whereof the said parties to these presents have hereunto set their hands the day of 187 ."

Form of Description of Emigrants.

Name of labourer.	Father's name.	Age.	Sex.	Caste.	Residence.			Period of service.
					Zila.	Pargana.	Mauza.	

Note.—If the contract is one under sections 24 or 25, it must be signed by the garden-sardár on behalf of the employer; if under section 57, by the employer with whom the emigrant intends to contract, or his agent. It must, if under section 24, be executed before the Magistrate; if under sections 25 or 57, before the superintendent of emigration. The execution of the contract must be attested by the superintendent of emigration or by the Magistrate, who must also append to the foot thereof a certificate to the following effect:—

"I hereby certify that, before the within-mentioned (*emigrant's name*) signed this contract, I personally explained it to him.

Sd. ————————

Superintendent of Emigration, or Magistrate."

SCHEDULE B.

(*See section 16.*)

FORM OF GARDEN-SARDÁR'S CERTIFICATE.

"*Garden-sardár's Certificate, required under section 16 of Bengal Act VII of 1873.*

Name of Garden-sardár.	Father's name.	Caste.	Age.	Height.		General appearance and characteristic marks.	Name of place and description of lands on which labour is to be performed.	District (or Calcutta) where Natives are to be engaged.	Number of Natives the bearer is authorized to engage.	* Name of contractor to whose depôt Natives should be conveyed.	Remarks.
				Feet.	In.						

* *N. B.*—If the number of Natives engaged exceed twenty, they will have to go to a contractor's depôt.

Countersigned (under section 19) on the 187 six months from which date this certificate ceases to be in force.

Magistrate of

(*Sd.*)

Employer."

Dated 187

SCHEDULE C.

(*See sections 14 and 33.*)

FORM OF CONTRACTOR'S LICENSE.

"*A. B.* is hereby licensed to act, throughout the Provinces under the control of the Lieutenant-Governor of Bengal, as a contractor for engaging and supplying Natives for the purpose of labouring for hire in Assam, Kachár, Silhat, Chittagong and the Chittagong Hill Tracts[a] under the provisions of the Labour Districts Emigration Act VII of 1873 (B.C.).

This license will be in force for one year only, from this date.

Dated Calcutta, the day of

(*Sd.*) *M. N.*,
Superintendent of Emigration."

SCHEDULE D.

(*See sections 14 and 38.*)

FORM OF RECRUITER'S LICENSE.

"*C. D.* is hereby licensed to act on behalf of *A. B.*, a licensed contractor, as a recruiter for engaging or inducing Natives to proceed to Assam, Kachár, Silhat, Chittagong and the Chittagong Hill Tracts,[b] for the purpose of labouring therein for hire, under the provisions of the Labour Districts Emigration Act VII of 1873 (B.C.).

This license will be in force for one year only, from this date.

Dated Calcutta, the day of

(*Sd.*) *M. N.*,
Superintendent of Emigration."

SCHEDULE E.

(*See sections 61 and 67.*)

FORM OF EMIGRANT'S PASS.

Name of emigrant.	Age.	Father's name.	Name of employer.	Place in which emigrant has contracted to labour.	Place of disembarkation.

[a, b] See Bengal Act No. II of 1878.

"The emigrants above described are permitted to embark on the , which will leave on the for the purpose of proceeding to the district of

Dated the day of

(*Sd.*) *R. M.*,
Contractor [*or Garden-sardár*] (*if any*).

Dated the day of

(*Sd.*) *G. D.*,
Superintendent of Emigration (*if required*).

Dated the day of

(*Sd.*) *A. L.*,
Embarkation-Agent."

Note.—The names of any number of emigrants proceeding in the same vessel may be entered in one pass.

SCHEDULE F.

(*See section 138.*)

FORM OF CERTIFICATE OF RELEASE ON DETERMINATION OF CONTRACT.

"I hereby certify that the contract entered into on the day of 18 , under Bengal Act VII of 1873, between [*labourer's name*] of the one part, and [*employer's name*] of the other part, has been determined by effluxion of time (*or* 'by mutual consent,' *or* 'under the provisions of section of the said Act,' as the case may be).

"In witness whereof I have hereunto set my hand day of 187

Inspector of Labourers."

Form of Description of Emigrant.

Name of labourer.	Father's name.	Age.	Sex.	Caste.	Residence.			Period of service.
					Zila.	Pargana.	Mauza.	

ACT No. I. OF 1874.

Received the Lieutenant-Governor's assent on the 6th of December 1873, and the Governor General's assent on the 3rd of January 1874.

An Act to amend Act II of 1866 of the Council of the Lieutenant-Governor of Bengal.

Preamble.

WHEREAS the cases made punishable under Act II of 1866 of the Lieutenant-Governor of Bengal in Council (An Act to provide for the better regulation of the Police within the suburbs of Calcutta) can, under section 49 of that Act, be tried by a Magistrate of less than full powers, only when they are referred to him by the District Magistrate; and whereas further by Act X of 1872 (the Code of Criminal Procedure) new rules have been enacted assigning and regulating the powers of Magistrates of the first, second and third classes;

It is hereby enacted as follows:—

1.—[*Repealed by Bengal Act No. VII of 1878*].

Offences to be enquired into and tried under Criminal Procedure Code.

2. The offences punishable under the said Act II of 1866 shall be enquired into and tried under the provisions of section 8 of Act X of 1872 (the Code of Criminal Procedure).

ACT No. I OF 1875.

Received the Lieutenant-Governor's assent on the 1st of February 1875, and the Governor General's assent on the 17th idem.

An Act for the realization of arrears in Government estates.

Preamble.

WHEREAS it is expedient to amend Bengal Act No. VII of 1868 (*to make further provision for the recovery of arrears of land-revenue and public demands recoverable as arrears of land-revenue*), and to provide for the summary realization of arrears of revenue or rent due from raiyats and other persons holding non-transferable interests in land in estates managed by the Government; It is enacted as follows:—

Addition to section 1 of Bengal Act VII of 1868.

1. To section 1 of the said Act, the following clauses shall be added, (namely)—

[See *supra*, p. 584.]

ACT No. II OF 1875.

Received the Lieutenant-Governor's assent on the 10th of March 1875, and the Governor General's assent on the 15th idem.

An Act to amend the Jute-warehouse and Fire-brigade Act, 1872.

WHEREAS it is expedient to amend the Jute-warehouse and Fire-brigade Act, 1872; It is enacted as follows:— Preamble.

Repeal of part of Bengal Act II of 1872.

1. Sections 9, 10 and 14 of the Jute-warehouse and Fire-brigade Act, 1872, are hereby repealed.

Amendment of section 7 of Bengal Act II of 1872.

2. For section 7 of the Jute-warehouse and Fire-brigade Act, 1872, the following shall be substituted (namely):—

[See *supra*, p. 751.]

Provisions of last section applicable to old licenses.

3. The Commissioners shall, at the option of the holder of any license heretofore granted for any jute-warehouse, exclude from the conditions of such license so much of clause (1)* of section 7 of the Jute-warehouse and Fire-brigade Act, 1872, as relates to combing and drying, and also clause (8) of the same section, and in lieu thereof insert clauses (2) and (4) of the same section as amended by the last preceding section of this Act.

The Commissioners may from time to time, at a special meeting, alter the amount of fee, in accordance with the rates heretofore specified to be paid, in respect of any jute-warehouse for which a license has been heretofore granted.

On change of occupation in warehouse, occupier to give notice.

4. On a change in the occupation of any jute-warehouse, the person entering into occupation of the same shall, within two weeks of his so entering into occupation, give notice in writing to the Commissioners of such change of occupation, and shall thereupon pay to the Commissioners a fee of two rupees; and his name shall accordingly be entered in such license as the occupier in the place of the name of the person going out of occupation.

If any jute-warehouse is let out in portions, the person so letting it out and entitled to the rent shall, for the purposes of this Act, be deemed to be the occupier.

Cancelment or suspension of license.

5. It shall be in the discretion of the Commissioners[a] at a special meeting to cancel or to suspend for such time as they shall think fit the license of any jute-warehouse in respect of which any one or more of the conditions under

[a] See Bengal Act No. I of 1877, sec. 1.

which such license is held shall appear to them to have been broken, or in respect of which the provisions of the last preceding section have been broken.

Municipal Commissioners to have same power as Commissioners.

6. In regard to any jute-warehouse situated or used, or any land proposed to be used as a jute-warehouse out of the town of Calcutta and within the limits of the operation of the Jute-warehouse and Fire-brigade Act, 1872, and of this Act, the powers and duties conferred and imposed by Part II of the Jute-warehouse and Fire-brigade Act, 1872, and the powers and duties conferred by this Act, on the Commissioners, or on the Commissioners at a special meeting, shall be exercised and discharged by the Municipal Commissioners at a meeting within whose jurisdiction such warehouse or land is situated.

The annual fee in respect of any license granted by the said Municipal Commissioners for a jute-warehouse may be at the rate of one hundred rupees, or at such other rates not exceeding one thousand rupees, or less than one hundred rupees, as the said Municipal Commissioners may direct.

The said Municipal Commissioners may from time to time, at a meeting, alter the amount of the fee to be paid in respect of any jute-warehouse for which a license has been heretofore, or for which a license may hereafter be granted.

Addition to section 25, Bengal Act II of 1872.

7. To section 25 of the Jute-warehouse and Fire-brigade Act, 1872, the following words shall be added (namely) :—

[See *supra*, p. 755.]

Penalty on occupier in case of breach of conditions of license.

8. Whenever any of the conditions under which a license is held in respect of any jute-warehouse have been broken in such jute-warehouse, the person whose name appears on the license as the occupier of such jute-warehouse shall be liable, on conviction before a Magistrate, to a penalty not exceeding one hundred rupees in respect of any one condition so broken.

Penalty on person breaking conditions of license.

9. Whoever breaks any of the conditions under which a license is held in respect of any jute-warehouse shall be liable, on conviction before a Magistrate, to a penalty not exceeding fifty rupees for any one such offence, and in default thereof to imprisonment not exceeding one month.

Penalty for omitting to give notice on change of occupation.

10. If on a change in the occupation of any jute-warehouse, the person entering into occupation shall fail to give the notice required by section 4 of this Act, such person shall be liable, on conviction before a Magistrate, to a penalty not exceeding one hundred rupees.

Provisions applicable to all warehouses.

11. Sections 4, 5, 6, 8, 9 and 10 of this Act shall apply to every jute-warehouse in respect of which a license has been granted under the Jute-warehouse and Fire-brigade Act, 1872, or may be granted under this Act, or both of them.

Except as in this Act expressly provided, nothing in this Act contained shall affect anything done under the Jute-warehouse and Fire-brigade Act, 1872.

12. Every license granted under the Jute-warehouse and Fire-brigade Act, 1872, and this Act, shall, as far as possible, be in the form in the schedule to this Act annexed. Form of license.

13. Nothing in the Jute-warehouse and Fire-brigade Act, 1872, or in this Act, shall be deemed to apply to places wherein small quantities of jute, not exceeding four maunds at any one time, are deposited for the purpose of any manufacture or retail-trade. Saving of places of manufacture or retail-trade.

14. This Act shall be construed as one with the Jute-warehouse and Fire-brigade Act, 1872. Construction.

"The Commissioners" in this Act means the corporation of the town of Calcutta.[a] Interpretation.

SCHEDULE.

(*See sections 2 and 12 of this Act.*)

LICENSE UNDER BENGAL ACTS II OF 1872 AND II OF 1875.

No. *of 187*

THE Commissioners for the town of Calcutta hereby grant unto

this license under Bengal Acts II of 1872 and II of 1875 to store and press jute in premises No. , Calcutta, subject to the conditions noted on the back; and they hereby acknowledge to have received the sum of rupees being the license-fee due by the said from to 187 in respect of the aforesaid premises at the rate of rupees per annum.

Name of owner _____

Name of occupier _____

_____

_____

Secy. to the Commissioners for the town of Calcutta.

The *day of*

[a] See Bengal Act No. I of 1877, sec. 3.

ACT No. III of 1875.

Received the Lieutenant-Governor's assent on the 10th of March 1875, and the Governor General's assent on the 24th of April 1875.

An Act to amend Bengal Act No. VI of 1864.

Preamble. WHEREAS it is expedient to amend Bengal Act No. VI of 1864[a] (*to provide for the periodical inspection of steam-boilers and prime-movers attached thereto in the town and suburbs of Calcutta*); It is enacted as follows:—

Power to revoke certificate already granted.

1. The Lieutenant-Governor of Bengal or any person authorized by him in that behalf, may revoke or suspend any certificate already granted or to be granted under the said Act, on the ground that the boiler or prime-mover in respect of which it has been granted is not in charge of a person competent to have charge of the same.

If the owner of such boiler or prime-mover, or the person so in charge as aforesaid, be dissatisfied with such revocation or suspension, he may apply to some person (not being the person who revoked or suspended the certificate) by general or special order duly authorized by the Lieutenant-Governor of Bengal in that behalf, who may, if he is so satisfied, grant a writing under his signature to the effect that the person so in charge as aforesaid is a person competent to have charge of a boiler or prime-mover; and the Lieutenant-Governor of Bengal, or the person who has revoked or suspended the certificate, shall accordingly grant a new certificate as far as possible in the form in the schedule to the said Act annexed, or shall allow the former certificate to continue in force.

No additional fee shall be paid for a new certificate granted under this section.

Construction. 2. This Act shall be construed as one with the said Bengal Act No. VI of 1864.

ACT No. IV of 1875.

Received the Lieutenant-Governor's assent on the 20th of February 1875, and the Governor General's assent on the 25th of June 1875.

An Act to provide for the summary realization of sums due on account of loans made by the Government during the late famine-operations.

Preamble. WHEREAS it is expedient to provide for the summary realization of sums due on account of loans of money and grain made by the Government to

[a] See *supra*, p. 486.

zamíndárs and raiyats during the years one thousand eight hundred and seventy-three and one thousand eight hundred and seventy-four; It is enacted as follows:—

Sums payable to Government in respect of loans.

1. Any sum payable to the Government by any person or collection of persons in respect of any loan of money or grain made to him or them, or to any other person on his or their security, by the Government, shall be deemed to be a demand within the meaning of Bengal Act No. VII of 1868[a] (*to make further provision for the recovery of arrears of land-revenue and public demands recoverable as arrears of land-revenue*); and an arrear of such demand shall, as far as possible, be recoverable in the manner provided in the said Act for the realization of arrears of demand;

and all provisions in the said Act relating to the realization of arrears of demand shall, as far as possible, be applicable to all proceedings under this section, as if such provisions were here repeated and re-enacted with reference thereto.

Recovery by landholders, &c., of money for which they have become security.

2. When any landholder, or any collection of villagers, has become security for the repayment of money payable in respect of any such loan as is mentioned in the last preceding section, and such landholder or collection of villagers, or any villager being one of such collection, has in consequence made to the Government payment of any sum of money due from any person liable to repay such loan, such landholder, or collection of villagers or villager, may give to the Collector of the district in which such person resides a notice in writing in the form in schedule (B) annexed to the said Bengal Act No. VII of 1868, shewing the amount due to him or them in respect of such payment; and if the Collector have reason to believe that any sum is due to such landholder, or collection of villagers or villager, in respect of such payment, he may make under his hand a certificate of the sum due in a form similar to that in schedule (A) to the said Act annexed, and shall cause the same to be filed in his office, and every certificate so made shall be deemed to be a certificate made in pursuance of section nineteen of the said Act;

and in respect of the sum so certified to be due, such landholder, or collection of villagers or villager, shall, as assignee or assignees of the Government, be deemed to be the plaintiff or plaintiffs in the place of the Government within the meaning of section twenty of the said Act:

and all provisions in the said Act relating to the realization of arrears of demand shall, as far as possible, be applicable to all proceedings under this section, as if such provisions were here repeated and re-enacted with reference thereto.

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[a] See *supra*, p. 582.

Application of Act.

3. This Act shall apply only to loans of money or grain made during the twelve months preceding the first day of November one thousand eight hundred and seventy-four.

Construction.

4. This Act shall be read with, and taken as part of, the said Bengal Act No. VII of 1868.

ACT No. V OF 1875.

Received the Lieutenant-Governor's assent on the 25th of August 1875, and the Governor General's assent on the 23rd of September 1875.

An Act to provide for the survey and demarcation of land.

Preamble.

WHEREAS it is expedient, with a view to the definition and identification of lands, the better security of landed property, and the prevention of encroachments and disputes, to provide for the survey of lands and for the establishment and maintenance of marks to distinguish boundaries; It is hereby enacted as follows:—

PART I.

PRELIMINARY.

Commencement.

1. This Act may be called "The Bengal Survey Act, 1875," and shall come into force from the date on which it may be published with the assent of the Governor General.

Local extent.

It extends to the territories for the time being subject to the Lieutenant-Governor of Bengal.

Interpretation-clause.

2. In this Act—unless there be something repugnant in the subject or context—

"Collector."

"Collector" means every Collector of a district, and includes every officer either generally or specially vested with the powers of a Collector for the purposes of this Act:

"Deputy Collector."

"Deputy Collector" includes any Deputy Collector to whom the Collector or Superintendent of Survey may delegate any of his functions under this Act:

"Estate."

"estate" means—

any land which is entered on the revenue-roll as separately assessed with the public revenue;

any land acquired from the Government under one title, which is liable to pay land-revenue at any future time;

any chár or island thrown up in a navigable river or in the sea which, under the laws in force, is at the disposal of the Government;

any land which is entered on the Collector's registers as a separate holding, free in perpetuity from liability to pay land-revenue:

any land gained by alluvion or by dereliction of a river or of the sea to any estate as here defined, which, under the laws in force, is considered an increment to the tenure to which such land has accreted shall be deemed a part of such estate:

"mauza" includes every village, hamlet, tola and similar sub-division of an estate, pargana or village by whatever name such sub-division may be known: "Mauza."

"occupant" includes every zamíndár, tenure-holder, farmer and other person entitled to receive rents in respect of land, or holding land on a claim that he is so entitled, and every raiyat in occupation of land: "Occupant."

"section" means a section of this Act: "Section."

"survey" includes identification of boundaries, and all other operations antecedent to and connected with survey: "Survey."

"tenure" includes all permanent interests in land, with the exception of estates as above defined, and with the exception of those of raiyats having a right of occupancy only; it also includes all ghátwálí holdings: "Tenure."

"tenure-holder" means all or any of the holders of a tenure: "Tenure-holder."

"zamíndár" means all or any of the holders of an estate. "Zamíndár."

PART II.

Of the Survey.

3. The Lieutenant-Governor may, whenever he shall think fit, order that a survey shall be made of the lands situated in any district or in any part of a district, or in any specified tract of country, and that the boundaries of estates, tenures, mauzas or fields be demarcated on the lands so to be surveyed: Lieutenant-Governor may order survey.

Provided that in any district of which a survey may have been completed and approved by the Government, it shall not be lawful for the Lieutenant-Governor to order a new survey of lands on the banks of rivers or on the sea-shore to be made for the purposes described in Act IX of 1847[a] (*an Act regard-*

[a] See *supra*, p. 278.

ing the assessment of land gained from the sea or from rivers by alluvion or dereliction within the Provinces of Bengal, Bihár and Orissa), until ten years shall have expired from the completion and approval of any such previous survey.

Lieutenant-Governor may appoint Superintendent of Survey.

4. For the purpose of carrying out any survey directed to be made under the last preceding section, or for any or all of the purposes of this Act,

the Lieutenant-Governor may appoint a Superintendent of Survey, who may exercise all or any of the powers of a Collector under this Act;

and may appoint one or more Assistant Superintendents and Deputy Collectors, who shall exercise all the powers of a Collector in respect to such matters under this Act as may be delegated to such Assistant Superintendents or Deputy Collectors respectively by the Collector or Superintendent of Survey and not otherwise:

Provided that, notwithstanding the appointment of a Superintendent of Survey for any tract of country, it shall be competent to the Board of Revenue to direct that the Collector shall perform any duties under the Act within the said tract.

Collector to publish proclamation before entering on lands.

5. Before entering on any lands for the purpose of a survey, the Collector shall cause to be published a proclamation addressed to the occupants of the lands which are about to be surveyed, and of the conterminous lands, and to all persons employed on, or connected with the management of, or otherwise interested in, such lands, calling upon them to attend, either personally or by agent, before the Collector or any officer authorized by the Collector in that behalf, at such places and at such times as shall be stated in such proclamation, during the demarcation and survey of the land, for the purpose of pointing out the boundaries and of rendering such aid as may be necessary in setting up or repairing such boundary-marks as may be required, and of affording such assistance and information as may be needed for the purposes of this Act.

Such proclamation shall be published by posting a copy thereof

at the Court of the Judge and at the office of the Collector of every district within which any portion of the lands about to be surveyed may be known to be situated;

at every sub-divisional office, Police-station, Munsif's Court and sub-registrar's office within the jurisdiction of which any portion of the land about to be surveyed may be known to be situated;

at one or more mál-kachahrís on each estate; and at such other place or places as to the Collector may seem fit.

Collector may enter upon land.

6. After issue of a proclamation as aforesaid, the Collector and any persons acting under his authority may enter upon such lands, and do all things and

make all enquiries necessary for effecting the survey and demarcation of the boundaries thereof.

Collector may serve special notice.

7. The Collector may also, by a special notice, require any such person to attend before him, or before any person authorized by the Collector in that behalf, within a specified time, which shall not be less than fifteen days after the service of the notice, at any places, for any of the purposes aforesaid; and every person on whom such special notice may be served shall be legally bound to attend as required by the notice, and to do any of the things mentioned in section 5, and to give any information which may be required, so far as he may be able to give it.

Collector to pay price of materials or labour supplied.

8. When any materials or labour shall have been supplied for any of the purposes mentioned in section 5, the Collector or other officer making a requisition under that section shall forthwith cause the price of such materials or labour to be paid to the person by whom the same were supplied.

Collector may require occupants to clear boundary-line.

9. The Collector or other survey-officer authorized by the Collector in that behalf may, by a special notice, require any occupant to clear any boundary or other line which it may be necessary to clear for the purposes of the survey, by cutting down and removing any trees, jungle, fences or standing crops.

Compensation.

10. If any demand for compensation be made in respect of the clearance of any line in accordance with a requisition under the last preceding section, the Collector shall ascertain and record the nature and estimated value of any trees, jungle, fences or standing crops which may have been cut down or removed, and shall offer adequate compensation to the owners thereof, together with payment for all expenses incurred in carrying out the said requisition.

Amín or survey-officer to call upon persons to sign maps or papers.

11. When the demarcation of a village or other convenient tract has been completed, the Amín or other survey-officer shall, before sending in to the Collector the maps and papers relating thereto, by a general notice in which the names of all persons required to appear shall be specified, and which shall be posted up at a convenient place in the village or tract, call upon all persons who have pointed out any boundaries in such village or tract on behalf of those interested to attend before him within three days of the publication of the said notice for the purpose of inspecting the maps, field-books and similar papers in which any boundary pointed out by any such person has been represented, and by signing such maps and papers to certify that the boundaries have been laid down in accordance with the boundaries pointed out by them; and every person so called upon shall be legally bound to attend before such Amín or survey-officer, and to inspect the papers, in accordance with such requisition.

Statement of objections.

Any person so called upon who may object to sign the maps and papers as aforesaid, shall be required to state his objections in writing, and such statement shall be attached to the record of the demarcation of the village or tract, and shall be submitted to the Collector together with the maps and papers.

Effect of signature.

The signature affixed to any maps or papers under this section shall be in attestation of the fact that the boundaries thereon represented, or any of them, have been represented in accordance with those pointed out by the person signing; and the affixing of such signature shall not be held to prejudice the right of any person interested to make any objection to such boundaries on any other ground before the Collector under the next succeeding section.

On receipt of maps, Collector to post notification in office.

12. On receipt in the Collector's office of the maps or papers shewing any boundaries which have been demarcated, the Collector shall cause a notification to be posted in his office, and in such other places as he may think proper, informing all persons concerned that the maps and papers relating to the boundaries in the village or tract specified are open to inspection; and requiring any person who may have any objections to prefer, to prefer such objections within six weeks of the date of the posting of such notification, after which time the Collector will proceed finally to confirm the boundaries as laid down for the purposes of the survey:

Collector when to issue special notice.

Whenever the Collector shall have reason to believe (either from the failure of any person interested or his representatives to sign the maps and papers on the spot when required by the survey-officer to do so under the last preceding section, or for any other reason), that any zamíndár or person interested is likely to object to any boundary as laid down or as represented in the said papers, the Collector shall cause a special notice requiring such zamíndár or other person to attend personally or by duly authorized agent before him, or before any person authorized by the Collector in that behalf, within a specified time, which shall not be less than one month after the service of the notice, for the purpose of signing and thereby admitting the correctness of any maps or other papers which have been prepared under this Act in respect of any boundary in which such zamíndár or other person is interested, or of stating in writing the substance of any objection which he may wish to prefer against the correctness of such maps or papers; and if any person so summoned shall fail to attend and to sign the said maps or papers, or to give in a written statement of his objections within the time prescribed, the Collector may proceed finally to confirm the boundaries as represented in such maps and papers, for the purposes of the survey and of this Act:

If agent deposits expenses of making copies, Collector to order

Provided that, if within the time specified any such duly authorized agent deposits with the Collector the necessary expenses of making copies of the said maps or papers, the Collector shall order such copies to be prepared, and

as soon as they are prepared, shall cause a notice to that effect to be posted at his office, and the said agent shall be allowed such time as may be specified in such notice, not being less than fifteen days from the posting thereof, for the purpose of signing or of giving in a written statement of objections. them to be prepared.

When a written statement of objections has been given in, as in this section provided, the Collector, after holding any further inquiry which he may deem necessary, shall pass such order in respect of such objections as to him shall seem fit; and if the objections shall seem to him not to be well-founded, shall direct that all expenses of such further inquiry, and all expenses entailed on any other person by such inquiry, shall be recovered from the person who made the objection. Procedure when objection is stated

13. Whenever any person, having failed to sign the maps and papers, or to give in his objections in writing within the time prescribed by the notification or by the special notice mentioned in the last preceding section, shall, at any time before the Collector has finally confirmed the boundaries for the purposes of the survey, prefer any subsequent objection against the correctness of any maps or papers in respect of which such notification or notice was issued, the Collector shall require him to deposit the estimated costs of any further inquiry which it may be necessary to make in respect of his objection; and if the said person shall fail to deposit such costs within the time specified by the Collector, he shall be deemed for all purposes of this Act to have admitted the correctness of the said maps and papers. Person making subsequent objection may be required to deposit costs of further inquiry.

If the costs of any inquiry which may be deemed necessary be deposited, the Collector shall make such further inquiry at the expense of the person so objecting; and if the objection shall seem to the Collector not to be well-founded, he may pass such order as he shall think fit in respect of the recovery from the objector of any sum expended by the Collector on the inquiry in excess of the sum deposited, and of any necessary expenses incurred by any other persons on account of such inquiry:

Provided that no person so making an objection after the prescribed time shall, under any circumstances, be entitled to recover the expenses which he is required to deposit before any further inquiry is made in respect of such subsequent objection.

PART III.

Of Boundary-marks

14. The Collector may cause to be erected temporary boundary-marks of such materials, and in such number and manner, as he may direct, on any lands to be surveyed under this Act; Collector may erect temporary boundary-marks.

and may require any occupant of land to maintain and keep in repair such marks or any boundary-marks,

until any survey-operations shall be concluded and a final award given as to any disputed boundary, or

until permanent boundary-marks may be erected in lieu thereof as hereinafter provided.

Collector may erect permanent boundary-marks.

15. The Collector may at any time cause to be erected on any land which is to be, or which has been, surveyed under this Act, permanent boundary-marks of such materials, and in such number and manner, as he may determine to be sufficient to distinguish the boundaries of the estates, tenures, mauzas or fields for which the same are to be erected:

Specification of marks and estimate of cost to be posted.

Provided that seven days before he proceeds to the erection of any permanent boundary-marks, the Collector shall, for the information of all concerned, cause to be posted in his office, and in the mál-kachahrí or at some other convenient place on every estate concerned, a specification of the number and character of the marks which he proposes to erect on the estate and an estimate of their cost.

Apportionment of expenses.

16. All expenses incurred by the Collector in erecting temporary or permanent boundary-marks under this Act shall, in manner hereinafter provided, be apportioned among, and levied from, the zamíndárs and tenure-holders on their estates:

Provided that no tenure-holder shall be liable to pay any portion of the expenses incurred by the erection of boundary-marks on an estate, unless some portion of his tenure is situated within fifteen hundred feet of some such boundary-mark.

Rent-free lands deemed part of tenure.

17. All lands held without payment of rent, not being entered on the Collector's register of revenue-free tenures of the district, shall, for the purposes of this Act, be deemed to form a part of the tenure within the local boundaries of which they may be included; and if they be not included within the local boundary of any tenure, then to be a part of the estate within the local boundaries of which they are included, and if they be not included within the local boundaries of any one estate, then to be a part of such conterminous estate as the Collector in whose district such conterminous estate is situated shall, by an order under his seal, appoint:

Provided that no rent-free holding of which the annual value is less than five rupees shall be liable to pay any portion of the expenses of erecting boundary-marks under this Act.

Procedure when occupant fails to maintain

18. If any occupant on whom a requisition has been made under section 14 fails to maintain or keep in repair any temporary boundary-mark, the Collector may maintain, keep in repair or restore any such boundary-mark

and the expenses thereby incurred shall be recovered as provided in section 57 from the person so failing to maintain or keep in repair any such boundary-mark. . . boundary-mark.

19. Every zamíndár, tenure-holder and farmer of land shall be legally bound to preserve, as far as lies in his power, such of the permanent boundary-marks lawfully erected on his estate, tenure or farm, or on the boundary between his estate, tenure or farm, and any other estate, tenure or farm, as may be assigned to him in that respect entirely, or jointly with other persons, under the provisions of section 29, and shall give immediate notice to the Collector if any such marks are injured, destroyed or removed, or require repairs.[a] Zamíndár, &c., bound to preserve boundary-marks and give notice to Collector when injured.

20. Whenever it shall come to the notice of the Collector that any permanent boundary-mark erected under the provisions of this Act has been injured, destroyed or removed, or requires repairs, the Collector may cause such boundary-mark to be re-erected, restored or repaired, and may recover any expenses incurred in respect of such re-erection, restoration or repair, in such proportions as he shall think fit, from the zamíndárs and tenure-holders to whom such boundary-mark may have been assigned in that respect under the provisions of section 29, and all such expenses shall be recoverable as provided in section 57.[b] Collector may re-erect injured boundary-mark and recover expenses from zamíndár, &c.

21. Nothing contained in this Act shall be held to prohibit the Collector from causing any temporary or permanent marks to be erected, maintained or repaired by any occupant of land, under the directions of the said Collector, and with the consent of such occupant. Collector may cause boundary-mark to be erected by occupant of land with his consent.

The Collector shall repay to such occupant the expenses incurred in such erection or repair, and such expenses shall be apportioned and recovered as provided in Part IV.

PART IV.

Of the Apportionment and Recovery of Expenses.

22. Upon the completion of the erection of boundary-marks on any tract of land of which the survey may have been ordered, or on any convenient portion thereof, the Collector shall forthwith prepare a statement of all expenses incurred in respect of such boundary-marks. Collector to prepare statement of expenses in respect of boundary-marks.

23. Such statement shall shew the total number of marks of each description which have been erected on such tract or portion of such tract, the aggregate cost of erecting all the marks of each description, the names of the estates and mauzas within, or on the boundaries of, which any marks have Contents of statement.

[a, b] See Bengal Act No. VIII of 1876, sec. 126.

been erected, and the total number of marks of each description erected within or on the boundary of each estate.

Collector to apportion cost of erecting marks among estates.

24. Upon the completion of such statement, the Collector shall provisionally apportion the aggregate expenses of erecting the marks among the estates specified, with reference to the number of boundary-marks of each description which have been erected within or on the boundary of each estate.

Notice to be served.

25. So soon as the provisional apportionment shall have been made as required by the last preceding section, the Collector shall cause a notice to be served on the zamíndár of every estate on which the expenses have been apportioned—

(*a*) specifying the sum which has been apportioned on his estate, and, as far as can be calculated, the sum which he will be required to pay on account of the service of notices on him under this section and section 29;

(*b*) informing him that the said statement is open to inspection in the office of the Collector;

(*c*) calling on him to appear in person, or by agent properly authorized, at the office of the Collector on a date to be specified in the notice (not being less than two months after the issue of the notice), on which date the Collector will proceed to consider any objections which may be made to the provisional apportionment of expenses;

(*d*) warning him that if he does not appear on the date fixed in pursuance of the notice he will be deemed to have waived all objections to the share of the expenses apportioned to his estate;

and (unless as otherwise hereinafter provided in sections 31, 32 and 33)

(*e*) informing him that, under this Act, he is entitled to recover a portion of the amount which shall be finally made payable in respect of his estate under section 26, from such tenure-holders on his estate as are made liable to bear a portion of such expenses by sections 16 and 17 (of which sections a copy shall be annexed to the notice); and that in order to enable the Collector to apportion the said amount among the said tenure-holders, he may give in a list of all such tenures as defined in this Act, held directly from him, with a specification of the number of boundary-marks of each description which are erected within or on the boundary of each tenure;

(*f*) and warning him that if he fails to give in a list of tenures as aforesaid on or before the said date, he will be deemed to have given up all claim to recover from the tenure-holders any part of the amount for which he may be held liable under section 26.

Collector to make final apportionment.

26. On the date fixed in such notice, the Collector shall proceed to consider all objections which may be made to the provisional apportionment, and to make such final apportionment of the expenses as shall seem to him fit.

In making such final apportionment, the costs of serving all notices under section 25 shall be distributed rateably among the estates concerned, in proportion to the share of the expenses of erecting boundary-marks which may be apportioned to each estate; and the amount so finally apportioned as payable in respect of each estate, together with the costs of serving notices, rateably distributed as aforesaid, shall be due to the Collector from the zamíndárs of such estates.

Collector may postpone final apportionment.

27. Notwithstanding anything contained in the last preceding section, the Collector may postpone the final apportionment if it shall appear to him that a notice under section 25 has not been served on the zamíndár of any estate which should be made liable for a portion of the expenses, or for any other sufficient reason.

Zamíndár failing to appear deemed to have waived objections.

28. Any zamíndár failing to appear on the date fixed in the notice served on him under section 25 will be deemed to have waived all objections to the payment of the amount apportioned to his estate, and will not be entitled to prefer any objections thereto on any subsequent date; and any zamíndár failing to give in a list of tenures (when called upon under section 25 to give in such list), on or before such date, will be deemed to have given up all claim to recover from the tenure-holders any part of the amount which may have been apportioned as payable in respect of his estate under section 26.

Collector to issue notice specifying amount finally apportioned.

29. So soon as the expenses shall have been finally apportioned under section 26 among the estates concerned as hereinbefore provided, the Collector shall issue a notice in respect of every estate, specifying the amount finally apportioned as payable in respect of the estate, and requiring the zamíndár to pay such amount to the Collector, together with the costs of serving such notice, within one month of the issue of the notice. If such amount be not paid to the Collector within such period, the same, with interest, at such rate, not exceeding six per centum per annum, as the Lieutenant-Governor may from time to time determine, may be levied as provided in section 57.

Notice shall assign boundary-marks which zamíndárs are bound to preserve.

The notice issued under this section shall assign to the zamíndár, or to the zamíndár jointly with tenure-holders, the boundary-marks which they are legally bound to preserve under the provisions of section 19, and in respect of which they will be held liable to pay the costs of re-erection, maintenance and repair, under the provisions of section 20.[a]

[a] See Bengal Act VIII of 1876, sec. 126.

Collector to apportion between zamíndár and tenure-holders.

30. If the zamíndár of any estate shall give in a list of tenures, as referred to in section 25, with an application to the Collector to apportion between his estate and the tenures the amount which has been apportioned as payable in respect of his estate as aforesaid, the Collector shall proceed to make a provisional apportionment of the said amount between the zamíndár and the tenure-holders, to serve notices on the said tenure-holders in the manner provided in section 25; and to make a final apportionment among the said zamíndár and tenure-holders in the manner provided in sections 26 and 27; and the provisions of section 28 shall be applicable to such tenure-holders:

No separate notice in respect of apportionment of sum less than two rupees.

Provided that no separate notice shall be served under this section in respect of the provisional or final apportionment of the sum payable in respect of any tenure, if such sum be less than two rupees; but in respect of all such sums it shall be sufficient to publish a list shewing the sums apportioned as payable.

Such list shall be published by being posted at the office of the sub-divisional officer and at a conspicuous place in some village within which lands appertaining to the tenure are situate.

Summary apportionment between zamíndár and tenure-holders.

31. Notwithstanding anything in this Part contained, whenever the Collector may consider that he has sufficient information (whether derived from papers compiled for the purposes of the road-cess, from enquiries made in the course of proceedings under this Act, or otherwise) to enable him in a summary way to make an apportionment of any expenses recoverable under this Act in respect of any estate, between the zamíndárs of, and the holders of, tenures in such estate, the Collector may, as soon as possible after he shall have made a provisional apportionment under section 24 of the sum payable in respect of such estate, and without calling on the zamíndár to give in any list of tenures as provided in clause (*e*) of section 25, proceed to make a provisional apportionment between the zamíndárs and the tenure-holders of such estates of the sum which has been provisionally apportioned under section 24 as payable in respect of the estate.

Notice to zamíndár when provisional apportionment made summarily.

32. Whenever any provisional apportionment of the sum payable between the zamíndárs and the tenure-holders may have been made summarily, as provided in the last preceding section,

the notice to be served on the zamíndár under section 25 shall inform the zamíndár, in addition to the particulars specified in clauses (*a*), (*b*), (*c*) and (*d*) of the said section, and instead of those specified in clauses (*e*) and (*f*),

that under this Act he is entitled to recover a portion of the amount which shall be finally apportioned as payable in respect of his estate under section 26 from the tenure-holders on his estate; and

that the Collector has made a provisional apportionment of the said sum between the zamíndár and tenure-holders according to a list which shall be annexed to the said notice;

and shall warn him

that if he fails to prefer any objection to such provisional apportionment on or before the date specified, he will be deemed to have given up all right to prefer any such objection at any future time; and

that the Collector will proceed to make such apportionment final, or to make any modifications in it which he may think fit;

provided that the sum finally made payable by the zamíndár shall not exceed the sum apportioned upon him in the said provisional apportionment between the zamíndárs and the tenure-holders.

Procedure on provisional apportionment.

33. As soon as a provisional apportionment between the zamíndár and the tenure-holders shall have been made summarily as provided in section 31, the Collector shall proceed to serve notices on the tenure-holders concerned in the manner provided in section 30, and to do all other things as if the said provisional apportionment upon tenure-holders had been made on a list given in by the zamíndár under section 30.

Mode of apportionment among tenures.

34. In apportioning the amount among the zamíndár and the tenure-holders, the Collector shall first deduct such sum as he shall consider to be fairly payable by the zamíndár in respect of lands not included in any tenure, and in respect of his interest in lands which are included in tenures; and in apportioning the remainder among the tenures, he shall take into consideration the number of pillars erected within or on the boundary of each tenure, the extent of each tenure, and the distance at which it is situated from the boundary-marks; but no tenure shall be made liable for any portion of the sum so apportioned, unless some part of it be situated within fifteen hundred feet from some boundary-mark.

Notice of apportionment in respect of tenures.

35. So soon as the final apportionment among tenure-holders under section 30 shall be completed, the Collector shall cause to be issued notices to each of the said tenure-holders, stating the amount payable in respect of each of their tenures, with interest (if any) calculated at the annual rate of six per centum from the date on which the zamíndár paid to the Collector the sum which was apportioned on his estate under section 26, and the cost of serving upon the tenure-holder the notice under this section and calling upon him to pay the total amount so due to the zamíndár of the estate of which the tenure is a part, within one month of the date of the notice:

No separate notice to tenure-holder required to pay less than two rupees.

Provided that no separate notice shall be served under this section on any tenure-holder who is required to pay a sum of less than two rupees as his share of the expenses apportioned under this Act; but in respect of such sums it shall be sufficient to publish a list in the manner prescribed by section 30,

and no costs incurred in respect of the publication of any such list shall be recoverable from any person mentioned therein as liable to pay less than two rupees.

Collector not to issue notices to tenure-holders until zamíndárs have deposited costs.

36. Notwithstanding anything contained in section 35, the Collector shall not issue the notices therein mentioned to the tenure-holders until the zamíndárs concerned shall have deposited with the Collector the full amount of the costs of serving all the notices, and of publishing the lists as required by that section.

Apportionment between tenure-holder and holder of subordinate tenure.

37. The provisions of sections 25, 26, 27, 28, 29, 30, 34 and 35 shall be applicable, as far as possible, to every case in which any tenure-holder who has been made liable for the payment of any share of expenses under this Act may apply to the Collector to apportion the amount for which he has been made liable between himself and the holders of subordinate tenures direct from himself;

and the provisions of sections 31, 32 and 33, regarding the procedure for making a provisional apportionment in a summary way between a zamíndár and the tenure-holders on his estate, shall be applicable, as far as possible, to the provisional apportionment of expenses between the holder of a tenure and the holders of under-tenures within his tenure;

provided always that no such apportionment shall be made in respect of raiyats who have a right of occupancy only, and whose rent is not fixed in perpetuity.

Recovery of sums payable to zamíndár or tenure-holder.

38. Every zamíndár or tenure-holder to whom any sum is payable under the preceding sections, may recover the same with interest as aforesaid in the manner provided by any law for the time being in force for the recovery of arrears of rent in respect of the tenure for which the sum is due.

Recovery of sums expended by Government.

39. The provisions of this Part shall apply to all sums expended by the Government since the first day of November 1874 in erecting boundary-marks.

PART V.

Boundary-disputes.

Procedure in case of disputes as to boundary.

40. If it shall come to the notice of the Collector, in the course of a survey under this Act, that a dispute exists as to any boundary which should be surveyed, the Collector, after holding such enquiry as he may deem necessary, may determine such boundary as hereinafter provided.

Mode of determining boundary.

41. The Collector shall determine the boundary according to actual possession, and cause it to be secured by boundary-marks;

Force of

and the order of the Collector under this section shall, until it be reversed

or modified by competent authority, have the force of an order of any civil Court declaring the parties to be in possession of the land in accordance with the boundary as determined by the Collector. Collector's order.

42. If, after holding the necessary enquiry, the Collector is unable to discover which party was in possession of the disputed land when he instituted the enquiry under this section, the Collector may take possession of the land in dispute, and retain possession thereof until some party shall have established his right to the said land. Power of Collector to take possession of land in dispute.

43. Whenever the Collector thinks it necessary to decide a dispute as to any boundary under the last preceding section, he may, with the consent of the parties concerned, refer the same to arbitration. Power to refer to arbitration.

The procedure laid down in chapter XXXVII of the Code of Civil Procedure[a] shall, so far as may be practicable, be applicable to disputes so referred to arbitration.

44. If the boundary regarding which the dispute exists as mentioned in section 40 shall at any previous time have been determined by any Court of competent jurisdiction; or shall have been laid down and shewn on a map in the course of any previous revenue-survey or settlement, and no objection to the boundary as then laid down and mapped shall have been preferred before any authority competent to decide on such objection; Relaying boundary determined by Court or by revenue-survey.

whenever the dispute relates to the boundary of an estate which is liable for revenue, or to any other boundary by which the interests of the Government may be affected, the Collector shall,

and whenever the dispute relates to any other boundary, the Collector may, if he thinks fit,

relay, as nearly as may be possible, the boundary as previously determined or laid down and shewn on the map, and cause such boundary to be shewn on the survey-map, with an explanatory note to the same;

provided that the relaying and record of a boundary by the Collector under this section shall not affect the possession of any land by any party; and shall be in addition to the determination and record of the boundary according to actual possession required by section 41.

Nothing contained in this section shall be held to prohibit the Collector from deviating from a boundary as held by actual possession or as shewn on a former map, and laying down a new boundary, if all the parties concerned agree to such new boundary, on the ground that the boundary held by actual possession, or as shewn on the former map, was incorrect, and if it appears to the Collector that there is no objection to the adoption of such new boundary. Collector may deviate from boundary if parties agree.

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[a] Act No. X of 1877, section 3.

The reason for every such deviation shall be recorded in the Collector's proceedings.

Power of Collector in case of doubt or dispute as to boundary determined by Court or laid down by survey.

45. If it shall come to the notice of the Collector at any time, or in any manner, that a doubt or dispute exists in respect to any boundary

(*a*) which has at any time been determined by a competent Court; or

(*b*) which has been laid down and shewn on a map, in the course of a previous revenue-survey or settlement, or other proceeding of a revenue-officer for any special purpose, and against which no objection has been preferred to any authority competent to decide upon such objection; or

(*c*) which has been laid down by survey under this Act,

the Collector may, if he thinks it desirable for any reason that the boundary so determined or laid down shall be relaid, proceed to relay the boundary in the manner prescribed in section 44 of this Act,

and for the purpose of so relaying the boundary, he may make any enquiries and surveys which may be necessary, and such enquiries and surveys shall be deemed to be proceedings under section 6, and the Collector shall exercise in respect thereof all powers which he may exercise in respect of enquiries and surveys under that section.

In certain cases Collector may cause marks to be erected.

46. Whenever the Collector shall have determined a boundary which was in dispute, and the order shall have become final,

and whenever a boundary which has been supplied by the survey-officers, or has been determined under this Act, has been altered by a decree of any civil Court, which has become final,

and whenever it shall come to the notice of the Collector that any boundary has been determined by a competent Court or authority,

the Collector may cause such marks as he may think fit to be erected in order to secure the boundary permanently, and the provisions of Parts III and IV shall, so far as is possible, be applicable to boundary-marks which are erected under this section, and to the apportionment of the cost thereof.

PART VI.

MISCELLANEOUS.

Joint zamíndárs subject to every liability imposed on single zamíndárs.

47. Whenever any estate or tenure is held jointly by two or more zamíndárs or tenure-holders, all such zamíndárs and tenure-holders shall be jointly and severally liable in respect of every liability imposed on zamíndárs or tenure-holders respectively by this Act;

and any shareholder in any estate or tenure who may have paid the amount finally apportioned to such estate or tenure, may recover from his co-sharers such sums as may be payable in respect of their shares as arrears

of rent, or may take credit for such sums in any adjustment of accounts between himself and his co-sharers.

Service of notice.

48. Every notice in and by this Act required to be served on any person may be served—

(1) by delivering the same to the person to whom it is directed, or, on failure of such service, by posting the same on some conspicuous part of the house in which the said person resides, or by delivering the said notice to a general agent of the person to whom such notice is directed; or

(2) by sending a registered letter containing such notice directed to the said person at his usual place of abode, or to the place where he may be known to reside; or

(3) by posting a copy of the notice at any mál-kachahrí of the estate or tenure of the person to whom the notice is directed; or, if no such mál-kachahrí be found, on some conspicuous place on the said estate or tenure to which such notice relates, and by delivering, in the case of estates paying their annual revenue by four instalments, another copy thereof to any agent who shall have paid an instalment of revenue next after the preparation of such notice.

In all cases where two or more persons are holders of an estate or tenure, service of notice under this clause shall be deemed to be good and sufficient service on each and all of such persons.

No proceedings under Act affected by mistake or misdescription.

49. No proceedings under this Act shall be affected by reason of any mistake in the name of any person thereby rendered liable to pay any sum of money, or in the description of any estate or tenure or land in respect of which he is rendered liable to pay, or by reason of any other informality, provided the directions of this Act be in substance and effect complied with; and no proceedings under this Act shall be affected by reason of the omission to serve any notice on any zamíndár whose name is not recorded on the Collector's registers as owner of the estate in respect of which the notice is required to be served.

Power of Collector to enforce attendance of witnesses.

50. For the purpose of any enquiry under this Act, the Collector shall, in addition to every power conferred specially by this Act, have power to summon and enforce the attendance of witnesses and compel the production of documents by the same means (as far as may be), and in the same manner, as is provided in the case of a Court under the Code of Civil Procedure.

Daily fine for failure to comply with requisition in notice.

51. If any person shall fail to comply with a requisition contained in any special notice served under section 7 of this Act, or in any notice served for the purpose of any inquiry under Part V of this Act, within the time specified in such notice, the Collector may impose upon him such daily fine as he may think fit, not exceeding fifty rupees, and such fine shall be payable

daily until the requisition is complied with; and the Collector may proceed from time to time to levy any amount which has become due in respect of any such fine, notwithstanding that an appeal against the order imposing such fine may be pending:

Provided that whenever the amount levied under any such order shall have exceeded five hundred rupees, the Collector shall report the case specially to the Commissioner of the division, and no further levy in respect of such fine shall be made otherwise than by authority of the said Commissioner.

Penalty for not giving notice of injury to boundary-mark.

52. Any person, being bound by the provisions of section 19 to give notice to the Collector in respect of any boundary-mark having been injured, destroyed or removed, or requiring repairs, who shall fail to give such notice, shall be liable to a fine not exceeding one hundred rupees, to be imposed by order of the Collector.[a]

Penalty for removing boundary-marks.

53. Any person convicted before a Collector of wilfully erasing, removing or damaging any boundary-mark (not being a land-mark fixed by the authority of a public servant within the meaning of section 434 of the Indian Penal Code) which has been lawfully erected, may be ordered by the convicting officer to pay such sum, not exceeding two hundred rupees, for each mark so erased, removed or damaged, as the said officer may think fit, in addition to such sum as may be necessary to defray the expense of restoring the boundary-mark so erased, removed or damaged.

Collector may award portion of fine to informer.

54. The Collector may award any portion of a fine imposed under either of the two last preceding sections, and which may be realised, to any person who may have given information leading to the imposition of the fine.

Levy of fine.

55. A fine under sections 51, 52 and 53 may be levied, as far as may be practicable, in the manner provided in section 307 of the Code of Criminal Procedure; but if no moveable property belonging to the person from whom the fine is due is found in the district within which the order was passed, then such fine may be levied as if it were an arrear of revenue.

When person removing boundary-mark cannot be found, Collector may repair.

56. Whenever the person erasing, removing or damaging any boundary-mark cannot be discovered, or if for any other reason it is found impracticable to recover from him the sum which he has been so ordered to pay, the boundary-mark shall be restored or repaired by the Collector, and the expenses thereby incurred shall be recovered from the occupants of such of the conterminous lands, and in such proportions, as to the Collector may seem fit.

Every amount due deemed a demand under Bengal

57. Every amount which may become due to the Collector under the provisions of this Act in respect of any expenses incurred, or of any notices served, or of any costs payable by any party in an appeal, shall be deemed to

[a] See Bengal Act No. VIII of 1876, s. 126.

be a demand under section two[a] of Bengal Act VII of 1868[b] (*An Act to make further provision for the recovery of arrears of land-revenue and public demands recoverable as arrears of land-revenue*) and shall be leviable as such. Act VII of 1868.

58. Except as provided in sections 59 and 60, no appeal shall lie, as of right, against any order passed under this Act by any officer; but Appeal against orders.

the proceedings and orders of Assistant Superintendents and of Deputy Collectors under this Act shall be subject to the supervision and control of the Superintendent of Survey or Collector; Supervision of proceedings.

the proceedings and orders of the Superintendent of Survey and of the Collector, to the supervision and control of the Commissioner of the division; and

the proceedings and orders of all officers, to the supervision and control of the Board of Revenue:

Provided that the Government may order that, in the course of any survey under this Act, the functions of the Commissioner shall be restricted to the decision of appeals under section 60, and that the general powers of control and supervision over the Superintendent of Survey or Collector and their subordinate officers may be exercised by the Board of Revenue direct. Government may restrict functions of Commissioner.

59. An appeal, if presented within one month of the date of the order appealed against, shall lie to the Collector or Superintendent of Survey against every order of a Deputy Collector or of an Assistant Superintendent, Appeal against certain orders of Assistant Superintendent, or Deputy Collector.

(*a*) determining under section 8 the amount to be paid as the price of materials or labour supplied;

(*b*) determining under section 10 the amount to be paid as compensation;

(*c*) deciding a boundary-dispute;

(*d*) imposing a fine under this Act.

60. An appeal, if presented within one month of the date of the order appealed against, shall lie to the Commissioner of the division against every order of the Collector or Superintendent of Survey, Appeal against certain orders of Collector or Superintendent of Survey.

(*a*) determining under section 8 the amount to be paid as value of materials or labour supplied;

(*b*) determining under section 10 the amount to be paid as compensation;

(*c*) determining a disputed boundary;

(*d*) imposing a fine of more than fifty rupees on any person:

provided that the order appealed against under clauses (*a*), (*b*) and (*c*), shall not have been passed by the Collector or Superintendent of Survey on an appeal preferred against the order of a subordinate officer.

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[a] *Sic.* Read 'one'.

[b] See *supra*, p. 582.

Orders as to costs on appeal.

61. The Commissioner, Collector or Superintendent of Survey may pass such orders as they shall think fit in respect of the payment of costs incurred by any party in an appeal.

No suit to be brought unless appeal first preferred.

62. No suit shall be brought to set aside an order of a Superintendent of Survey, Collector, Assistant Superintendent or Deputy Collector deciding a boundary-dispute, unless an appeal shall have been first preferred under section 59 or section 60, or unless the person suing was at the time when such order was passed a minor, or insane, or an idiot.

Board of Revenue may lay down rules with sanction of Lieutenant-Governor.

63. With the sanction of the Lieutenant-Governor, the Board of Revenue may lay down rules, not being inconsistent with this Act,

to provide for the preparation of maps and registers, and for the collection and record of any information in respect of any land to be surveyed under this Act;

and generally to provide for the proper performance of all things to be done, and for the regulation of all proceedings to be taken, under this Act.

All enquiries ordered to be made for the collection of information under such rules, shall be deemed to be enquiries under section 6, and the Collector shall exercise in respect thereof all powers which he may exercise in respect of enquiries under that section.

ACT No. I OF 1876.

Received the Lieutenant-Governor's assent on the 23rd of November 1875, and the Governor General's assent on the 11th of January 1876.

An Act to provide for the voluntary registration of Muhammadan marriages and divorces.

Preamble.

WHEREAS it is expedient to provide for the voluntary registration of marriages and divorces among Muhammadans; It is enacted as follows:—

Local extent.

1. This Act shall commence and take effect in those districts in the Provinces subject to the Lieutenant-Governor of Bengal to which the said Lieutenant-Governor shall extend it by an order published in the *Calcutta Gazette*;[a] and thereupon this Act shall commence and take effect in the districts named in such order, on the day which shall be in such order provided for the commencement thereof.

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[a] See *Calcutta Gazette*, 1876, Part I, pp. 89, 650, 1311, 1398, 1492.

2. In this Act—unless there be something repugnant in the subject or context— Interpretation.

"Muhammadan Registrar" means any person who is duly authorized under this Act to register marriages and divorces: "Muhammadan Registrar."

"Inspector-General of Registration" and "Registrar" respectively mean the officers so designated and appointed under the Indian Registration Act, 1871, or other law for the time being in force for the registration of documents: "Inspector-General of Registration." "Registrar."

"district" means a district formed under the provisions of the Indian Registration Act, 1877[a]: "District."

"parda-nishín" means a woman who, according to the custom of the country, might reasonably object to appear in a public office. "Parda-nishín."

3. It shall be lawful for the Lieutenant-Governor to grant a license to any person, being a Muhammadan, authorizing him to register Muhammadan marriages and divorces which have been effected within certain specified limits, on application being made to him for such registration; and in like manner it shall be lawful for the said Lieutenant-Governor to revoke or suspend such license: Lieutenant-Governor may grant licenses to register.

Provided that no more than two persons shall be licensed to exercise the said functions within the same limits: and provided further that when two persons are so licensed to act within the same limits, the one shall be a member of the Sunni, and the other of the Shíá sect.

4. Every Muhammadan registrar shall use a seal bearing the following inscription in the Persian character and language: "The seal of the Muhammadan registrar of ." Muhammadan registrars to use seals.

5. The Lieutenant-Governor shall supply for the office of every Muhammadan registrar the seal and the books necessary for the purposes of this Act. Government to provide seal and books.

The pages of such books shall be consecutively numbered in print, and the number of pages in each book shall be certified on the title-page by the officer by whom such books are issued.

6. Every Muhammadan registrar shall keep up the following register-books: Muhammadan registrar to keep registers.

Book I—register of marriages, in the form (A) contained in the schedule to this Act;

Book II—register of divorces other than those of the kind known as *Khula*, in the form (B) contained in the schedule to this Act;

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[a] Act No. III of 1877, s. 2.

Book III—register of divorces of the kind known as *Khula*, in the form (C) contained in the schedule to this Act.

Entries to be numbered.

7. All entries in each register prescribed by the last preceding section shall be numbered in a consecutive series, which shall commence and terminate with the year, a fresh series being commenced at the beginning of each year.

Applications by whom to be made.

8. Every application for registration under this Act shall be made to the Muhammadan registrar orally as follows:—

If the application be for the registration of a marriage—

by the parties to the marriage jointly: provided that if the man, or the woman, or both, be minors, application shall be made on their behalf by their respective lawful guardians: and provided further that if the woman be a parda-nishín, such application may be made on her behalf by her duly authorized vakíl.

If the application be for registration of a divorce other than of the kind known as Khula—

by the man who has effected the divorce.

If the application be for the registration of a divorce of the kind known as Khula—

by the parties to the divorce jointly: provided that if the woman be a parda-nishín, such application may be made on her behalf by her duly authorized vakíl.

Duties of Muhammadan registrar on application.

9. On application being made to a Muhammadan registrar for registration under this Act of a marriage or divorce within one month of the marriage or divorce being effected, and not otherwise, and on payment to him of a fee of one rupee, the Muhammadan registrar shall—

(*a*) satisfy himself whether or not such marriage or divorce was effected by the person or persons by whom it is represented to have been effected;

(*b*) satisfy himself as to the identity of the persons appearing before him and alleging that the marriage or divorce has been effected;

(*c*) in the case of any person appearing as representative of the man or woman (whether he appear as guardian or vakíl), satisfy himself of the right of such person to appear.

If the Muhammadan registrar be satisfied on the above points, and not otherwise, he shall make an entry of the marriage or divorce in the proper register;

Provided that no such entry shall be made otherwise than in the presence of every person who, by section 11 of this Act, is required to sign such entry.

Muhammadan registrar may receive gratuity.

10. Nothing in the preceding section shall be held to prohibit a Muhammadan registrar from receiving a gratuity in excess of the prescribed fee of one rupee, when such gratuity is voluntarily tendered.

Entries by whom to be signed.

11. Every entry in a register kept under this Act shall be signed as follows:—

If the entry be of a marriage in a register in the form (A) contained in the schedule to this Act—

(1) by the parties to the marriage, or, if either or both of them be minors, by their lawful guardians respectively: provided that if the woman be a parda-nishín, the entry may be signed on her behalf by her duly authorized vakíl;

(2) by two witnesses who were present at the marriage-ceremony;

(3) in cases in which the woman is represented by a vakíl—by two witnesses to the fact of the vakíl having been duly authorized to represent her;

(4) by the Muhammadan registrar.

If the entry be of a divorce other than the kind known as Khula in a register in the form (B) contained in the schedule to this Act—

(1) by the man who has effected the divorce;

(2) by the witness who identifies the man who has effected the divorce;

(3) if the man be of the Shiá sect—by two witnesses to the divorce being effected;

(4) by the Muhammadan registrar.

If the entry be of a divorce of the kind known as Khula in a register in the form (C) contained in the schedule to this Act—

(1) by the parties to the *Khula:* provided that, if the woman be a parda-nishín, the entry may be signed on her behalf by her duly authorized vakíl;

(2) by the person who identifies the man;

(3) by the person who identifies the woman;

(4) if the application for registration has been made by a vakíl on behalf of the woman—by two witnesses to the fact of the vakíl having been duly authorized to represent her;

(5) if the man be of the Shiá sect—by two witnesses to the divorce being effected;

(6) by the Muhammadan registrar.

Copies of entry to be given to parties.

12. On completion of the registration of any marriage or divorce, the Muhammadan registrar shall deliver to each of the applicants for registration an attested copy of the entry; and for such copy no charge shall be made.

Index to be kept.

13. In every office in which any register hereinbefore mentioned is kept, there shall be prepared a current index of the contents of such register; and every entry in such index shall be made, so far as practicable, immediately after the Muhammadan registrar has made an entry in any such register.

Particulars to be shewn in index.

14. The index mentioned in the last preceding section shall contain the name, place of residence and father's name of each party to every marriage or divorce, and the date of registration.

It shall also contain such other particulars, and shall be prepared in such form, as the Lieutenant-Governor may direct.

Index may be inspected and copies of entries in registers taken.

15. Subject to the previous payment of the fees prescribed, the index, whether it be in the office of the Muhammadan registrar or of the registrar of the district, and the copies of entries in such index, which are filed in the office of the registrar of the district under the provisions of section 22 of this Act, shall be at all times open to inspection by any person applying to inspect the same; and copies of entries in any of the registers, and of the certified copies of such entries, which are filed in the office of the registrar of the district under section 22 of this Act, shall be given to all persons applying for such copies.

Such copies shall be signed and sealed by the registrar of the district or by the Muhammadan registrar, as the case may be.

Fees for searches and copies.

16. Every registrar of a district and every Muhammadan registrar shall, for the purposes of this Act, be entitled to levy the following fees:—

for every search or permission to search in any index or register under his charge—four annas:

for every certified copy of any entry in a register other than the first copy referred to in section 12 of this Act—one rupee.

Muhammadan registrars to be subject to control of district registrar.

17. Every Muhammadan registrar shall perform the duties of his office under the superintendence and control of the registrar in whose district the office of such Muhammadan registrar is situate.

In the town of Calcutta every Muhammadan registrar shall perform the duties of his office under the superintendence and control of the Inspector-General of Registration.

Every registrar, and in the town of Calcutta the Inspector-General of Registration, shall have authority to issue (whether on complaint or otherwise) any order consistent with this Act, which he considers necessary in respect of any act or omission of any Muhammadan registrar subordinate to him.

Inspector-General of Registration to exercise

18. The Inspector-General of Registration shall exercise a general superintendence over offices of all Muhammadan registrars, and shall have power from time to time to frame rules consistent with this Act for the guidance

of the said Muhammadan registrars, and the regulation of their offices generally.[a]

general superintendence.

19. All rules framed in accordance with the last preceding section shall be submitted to the Lieutenant-Governor for approval, and after they have been approved, they shall be published in the official Gazette, and shall then have the same force as if they were inserted in this Act.

Rules to be approved by Lieutenant-Governor and published in Gazette.

20. Every Muhammadan registrar refusing to register a marriage or divorce shall make an order of refusal, and record his reasons for such order in a book to be kept for that purpose.

Refusal to register to be recorded.

21. An appeal shall lie against an order of a Muhammadan registrar refusing to register a marriage or divorce, to the registrar to whom such Muhammadan registrar is subordinate, if presented to such registrar within twenty days from the date of the order, and the registrar may reverse or alter such order; and the order passed by the registrar on appeal shall be final.

Appeal against refusal to register.

22. Every Muhammadan registrar shall, at the expiration of every month, send certified copies of all entries made by him during the month in the registers mentioned in section 6 of this Act, and also of the entries which have been made in the index referred to in sections 13 and 14 of this Act, to the registrar of the district within which such Muhammadan registrar has been authorized to act, and the registrar, on receiving such copies, shall file them in his office.

Copies of entries to be sent monthly to registrar of district.

23. Every Muhammadan registrar shall keep safely each register until the same shall be filled, and shall then, or earlier if he shall leave the district or cease to hold a license, make over the same to the registrar of the district for safe custody, or to such other person as the registrar may direct.

Registers to be given up.

24. The Lieutenant-Governor may from time to time prescribe such rules as he thinks fit, provided that such rules be not inconsistent with any provision of this Act

Lieutenant-Governor may prescribe rules.

(*a*) for determining the qualifications to be required from persons to whom licenses under section 3 of this Act may be granted;

(*b*) for regulating the attendance of Muhammadan registrars at the celebration of marriages, and their remuneration for such attendance;

(*c*) for regulating the grant of copies by registrars and Muhammadan registrars;

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[a] See *Calcutta Gazette*, 29th March, 1876, Part I, p. 295: *ibid.*, 5th April, 1876, Part I, pp. 316—320: *ibid.*, 23rd August, 1876, Part I, p. 1053.

(*d*) for regulating the payment by the Muhammadan registrars of the cost of the seals, forms of registers, stationery and any other articles which may be supplied to them by the Government;

(*e*) for regulating the application of the fees levied by registrars of districts and Muhammadan registrars under this Act; and

(*f*) for regulating such other matters as appear to the Lieutenant-Governor necessary to effect the purposes of this Act.

The Lieutenant-Governor may from time to time cancel or alter any such rules.[a]

Muhammadan registrar a public officer.

25. Every Muhammadan registrar shall be, and be deemed to be, a public officer, and his duties under this Act shall be deemed to be public duties.

Saving clause.

26. Nothing in this Act contained shall be construed to

(*a*) render invalid, merely by reason of its not having been registered, any Muhammadan marriage or divorce which would otherwise be valid;

(*b*) render valid, by reason of its having been registered, any Muhammadan marriage or divorce which would otherwise be invalid;

(*c*) authorize the attendance of any Muhammadan registrar at the celebration of a marriage, except at the request of all the parties concerned;

(*d*) affect the religion or religious rites and usages of any of Her Majesty's subjects in India;

(*e*) prevent any person, who is unable to write, from putting his mark, instead of the signature required by this Act.

SCHEDULE.

(*See sections 6 and 11.*)

FORM (A). BOOK I.

Register of Marriages (*as prescribed by section 6 of the Act for the voluntary Registration of Muhammadan Marriages and Divorces*).

1. Consecutive number.

2. Name of the bridegroom and that of his father, with their respective residences.

3. Name of the bride and that of her father, with their respective residences.

4. Whether the bride is a spinster, a widow or divorced by a former husband, and whether she is adult or otherwise.

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[a] See *Calcutta Gazette*, 29th March, 1876, Part I, p. 295; *ibid.*, 5th April, 1876, Part I, pp. 316—320; *ibid.*, 23rd August, 1876, Part I, p. 1053.

5.* Name of the guardian of the bridegroom (if the bridegroom be a minor) and that of the guardian's father, with specification of the guardian's residence, and of the relationship in which he stands to the bridegroom.

6.* Name of the guardian of the bride (if she be a minor) and that of his father, with specification of his residence, and the relationship in which he stands to the bride.

7.† Name of the bride's vakíl, and of his father, and their residences, with specification of the relationship in which the vakíl stands to the bride.

8.† Names of the witnesses to the due authorization of the bride's vakíl, with names of their fathers and residences, and specification of the relationship in which thay stand to the bride.

9. Date on which the marriage was contracted,—to be given according to the English style and according to the era current in the district.

10. Amount of dower.

11. How much of the dower is mu'ajjal (prompt) and how much mu'wajjal (deferred).

12. Whether any portion of the dower was paid at the moment. If so, how much.

13. Whether any property was given in lieu of the whole or any portion of the dower, with specification of the same.

14. Special conditions, if any.

15. Names of village or town, police-jurisdiction, and district in which the marriage took place.

16. Name of the person in whose house the marriage-ceremony took place, and that of his father.

17. Date of registration,—to be given according to the English style.

FORM (B). BOOK II.

Register of Divorces other than those of the kind known as Khula (prescribed by section 6 of the Act for the voluntary Registration of Muhammadan Marriages and Divorces).

1. Consecutive number.

2. Names of the husband and of his father, and their residences.

3. Names of the wife and of her father, and their residences.

4. Date of divorce—according to the English style and according to the era current in the district.

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* These columns will be blank if the bride and bridegroom, respectively, are not represented by guardians.

† These columns will be blank when the bride is not represented by a vakíl.

5. Description of divorce.

6. Manner in which the divorce was effected.

7. Names of the village or town, police-jurisdiction, and district in which the divorce took place.

8. Name of the party in whose house the divorce took place, and of his father.

9. Names of witnesses to the divorce, if any, the names of their fathers, and their respective residences.

10. Name of party identifying the husband before the Muhammadan registrar and that of his father, and their residences.

11. Date of registration,—to be given according to the English style.

FORM (C). BOOK III.

Register of Divorces of the kind known as Khula (prescribed by section 6 of the Act for the voluntary Registration of Muhammadan Marriages and Divorces).

1. Consecutive number.

2. Name of the husband and that of his father, and their residences.

3. Name of the wife and that of her father, and their residences.

4. Date of *Khula*—according to the English style and according to the era current in the district.

5. Amount of dower.

6. Whether *Khula* was acknowledged by the wife in person before the Muhammadan registrar.

7. If so, name of the party identifying her before the Muhammadan registrar, and that of his father, and their residences, with specification of the relationship which he bears to her, if any.

8.* If the *Khula* be acknowledged before the Muhammadan registrar by the wife's vakíl, his name and that of his father, and their residences, with specification of the relationship which the vakíl bears to the wife, if any.

9. Names of the two witnesses to the due authorization of the wife's vakíl and those of their fathers, with their residences.

10. Name of village or town, police-jurisdiction, and district where the *Khula* took place.

11. Name of the person in whose house the *Khula* took place, and that of his father.

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* This column will be blank if the woman is not represented by a vakíl.

12. Names of the witnesses, if any, to the divorce being effected, the names of their fathers, and their residences.

13. Name of the person identifying the husband, and that of his father and their residences.

14. Date of registration,—to be given in the English style.

ACT No. II OF 1876.

Received the Lieutenant-Governor's assent on the 28th of August 1875, and the Governor General's assent on the 5th of February 1876.

An Act to amend Act XI of 1849, Act XXI of 1856, and Act IV (B.C.) of 1866.

1 to 11.—[*Repealed by Bengal Act No. VII of 1878.*]

AMENDMENT OF ACT IV (B.C.) OF 1866.

12. Act IV (B.C.) of 1866 shall be read as if, for section 40 of the said Act, the following section were substituted:— Amendment of section 40 of Act IV (B.C.) of 1866.

[See *supra*, p. 533.]

ACT No. III OF 1876.

Received the Lieutenant-Governor's assent on the 22nd of December 1875, and the Governor General's assent on the 24th of March 1876.

An Act to provide for irrigation in the Provinces subject to the Lieutenant-Governor of Bengal.

WHEREAS it is necessary to make provision for the construction, maintenance and regulation of canals, for the supply of water therefrom, and for the levy of rates for water so supplied, in the Provinces subject to the Lieutenant-Governor of Bengal; It is hereby enacted:— Preamble.

PART I.

PRELIMINARY.

1. This Act may be called "The Bengal Irrigation Act, 1876;" Short title.

Local extent.

It shall take effect in those districts in the Provinces subject to the Lieutenant-Governor of Bengal to which the said Lieutenant-Governor shall

Commencement.

extend it by an order published in the *Calcutta Gazette;*[a] and shall commence on the day which shall be in such order provided for the commencement thereof.

Repeal of Acts.

2. The enactments specified in schedule (A) hereto annexed are repealed to the extent mentioned in the third column of the said schedule.

Interpretation-clause.

3. In this Act—unless there be something repugnant in the subject or context—

"Canal."

(1) "canal" includes—

(*a*) all canals, channels and reservoirs hitherto constructed, maintained or controlled by Government for the supply or storage of water, or which may hereafter be so constructed, maintained or controlled;

(*b*) all works, embankments, structures, supply and escape-channels connected with such canals, channels or reservoirs;

(*c*) all village-channels as defined in clause (2) of this section;

(*d*) all drainage-works as defined in clause (3) of this section;

(*e*) any part of a river, stream, lake, natural collection of water or natural drainage-channel to which the Lieutenant-Governor has applied the provisions of Part II of this Act, or of which the water has been applied or used for the passing of this Act for the purpose of any existing canal;

(*f*) all lands on the banks of any canal as defined in articles (*a*), (*b*), (*c*), (*d*) and (*e*) of this clause, which have been acquired by Government:

"Village-channel."

(2) "village-channel" means any channel by which water is led from a canal directly into the fields to be irrigated, and includes all subsidiary works connected with any such channel, except the sluice or outlet through which water is supplied from a canal to such channel:

"Drainage-work."

(3) "drainage-work" means any work in connection with a system of irrigation which has been or may hereafter be made or improved by the Government for the purposes of the drainage of the country, whether under the provisions of Part IV of this Act or otherwise, and includes escape-channels from a canal, dams, weirs, embankments, sluices, groins and other works connected therewith, but does not include works for the removal of sewage from towns:

"Flood-embankment."

(4) "flood-embankment" means any embankment constructed or maintained by the officers of Government in connection with any system of irrigation-works for the protection of lands from inundation, or which may be

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[a] Shahábád, Pátná, Gayá, Mednípur, Huglí and Katak, *Calcutta Gazette*, 3rd May, 1876, Part I, p. 454.

declared by the Lieutenant-Governor to be maintained in connection with any such system; and includes all groins, spurs, dams and other protective works connected with such embankments:

(5) "Collector" means the head revenue-officer of a district, and includes any officer appointed by the Lieutenant-Governor to exercise all or any of the powers of a Collector under this Act: "Collector."

(6) "Court" means, in the Regulation Provinces, a principal civil Court of original jurisdiction; "Court."

and in the Non-Regulation Provinces, the Court of a Commissioner of a Division,

unless when the Lieutenant-Governor has appointed (as he is hereby empowered to do), either specially for any case, or generally within any specified local limits, a judicial officer to perform the functions of a Judge under this Act, and then the expression Court means the Court of such officer.

(7) "canal-officer" means an officer appointed under this Act to exercise control or jurisdiction over a canal or any part thereof; and includes every officer to whom any of the functions of a canal-officer under this Act have been assigned by the Lieutenant-Governor: "Canal-officer."

(8) "section" means a section of this Act: "Section."

(9) "owner" includes every person having a joint interest in the ownership of the thing specified; and all rights and obligations which attach to an owner under the provisions of this Act shall attach jointly and severally to every person having such joint interest in the ownership. "Owner."

4. Nothing contained in the Bengal Embankment Act, 1873,[a] shall apply to any canal or flood-embankment as defined in this Act. Exemption from Bengal Embankment Act.

5. The Lieutenant-Governor may from time to time declare, by notification in the *Calcutta Gazette*, the officers by whom, and the local limits within which, all or any of the powers or duties hereinafter conferred or imposed shall be exercised or performed. Power to appoint officers.

PART II.

Of the Application of Water for Public Purposes.

6. Whenever it appears expedient to the Lieutenant-Governor that the water of any river or stream flowing in a natural channel, or of any lake or other natural collection of still water, should be applied or used by the Government for the purpose of any existing or projected canal, Notification when water-supply to be applied for public purposes.

the Lieutenant-Governor may, by notification in the *Calcutta Gazette*,

[a] See *supra*, p. 767.

declare that the said water will be so applied or used after a day to be named in the said notification, not being earlier than three months from the date thereof.

Powers of canal-officer.

7. At any time after the day so named, any canal-officer acting under the orders of the Lieutenant-Governor in this behalf may enter on any land and remove any obstructions, and may close any channels, and do any other thing necessary for such application or use of the said water.

Notice as to claims for compensation.

8. As soon as is practicable after the issue of such notification, the Collector shall cause public notice to be given at convenient places stating that the Government intends to apply or use the said water as aforesaid, and that claims for compensation in respect of the matters mentioned in section 11 may be made before him.

A copy of sections 11, 12 and 13 shall be annexed to every such notice.

Contents of notice.

9. When any claim for compensation is made before the Collector in accordance with the last preceding section, the Collector shall issue a notice requiring all persons interested in the matter in respect of which compensation is claimed, to appear personally or by agent before him at a time and place therein mentioned (such time not being earlier than fifteen days after the date of publication of the notice), and to state the nature of their respective interests in the property affected, and the amount and particulars of their claims to compensation for such interests.

Notice to occupiers.

The Collector shall also serve notice to the same effect on the occupier (if any) of the land entered on, and on such persons known or believed to be interested in the matter in respect of which compensation is claimed, or to be entitled to act for persons so interested, as reside within his district.

Power to require statements as to name and interests.

10. The Collector may also require any person on whom a notice may be served under the last preceding section, and who makes a claim for compensation in accordance therewith, to deliver to him a statement containing, so far as may be practicable, the name of every other person possessing any interest in the property affected or any part thereof as co-proprietor, sub-proprietor, mortgagee, tenant or otherwise, and of the nature of such interest, and of the rents and profits (if any) received or receivable on account thereof for the year next preceding the date of the statement.

Penalty for failure to comply.

If any person shall fail to comply within the time fixed by the notice with a requisition made under this section, the Collector may impose upon him such daily fine as he may think fit not exceeding fifty rupees; and such fine shall be payable daily until the requisition is complied with, and the Collector may proceed from time to time to levy the amount which has become due in respect of any such fine, notwithstanding that an appeal against the order imposing such fine may be pending:

Provided that, whenever the amount levied under any such order shall have exceeded five hundred rupees, the Collector shall report the case specially to the Commissioner, and no further levy in respect of such fine shall be made otherwise than by authority of the Commissioner.

Persons required to make statements legally bound to do so.

Every person required to make or deliver a statement under this section shall be deemed to be legally bound to do so within the meaning of sections 175 and 176 of the Indian Penal Code.

Damage for which compensation shall not be awarded.

11. No compensation shall be awarded for any damage caused by

(*a*) stoppage or diminution of percolation or floods;

(*b*) deterioration of climate or soil;

(*c*) stoppage of navigation, or of the means of rafting timber or watering cattle.

Matters in respect of which compensation may be awarded.

But compensation may be awarded in respect of any of the following matters:—

(*d*) stoppage or diminution of supply of water through any natural channel to any defined artificial channel, whether above or under ground, in use at the date of the issue of the notification under section 6:

(*e*) stoppage or diminution of supply of water to any work erected for purposes of profit on any channel, whether natural or artificial, in use at the date of the said notification:

(*f*) stoppage or diminution of supply of water through any natural channel which has been used for purposes of irrigation within the five years next before the date of the said notification:

(*g*) damage done in respect of any right to a water-course or the use of any water to which any person is entitled under the Indian Limitation Act, 1877,[a] Part IV:

(*h*) any other substantial damage, not falling under any of the above clauses (*a*), (*b*) or (*c*), and caused by the exercise of the powers conferred by this Act, which is capable of being ascertained and estimated at the time of awarding such compensation.

Compensation for loss of tolls lawfully levied.

Notwithstanding anything contained in clause (*c*), compensation may be awarded in respect of the loss of any tolls which were lawfully levied on any river or channel at the time of the issue of the notification mentioned in section 6.

Diminution in market-value to be considered.

In determining the amount of compensation under this section, regard shall be had to the diminution in the market-value, at the time of awarding compensation, of the property in respect of which compensation is claimed; and

[a] Act No. XV of 1877, section 2.

where such market-value is not ascertainable, the amount shall be reckoned at twelve times the amount of the diminution of the annual nett profits of such property, caused by the exercise of the powers conferred by this Act.

No right to any such supply of water as is referred to in clauses (*d*), (*e*) or (*f*) of this section, in respect of a work or channel not in use at the date of the notification, shall be acquired as against the Government, except by grant or under the Indian Limitation Act, 1877,[a] Part IV.

Compensation for loss of drinking-water.

12. If any supply of drinking-water is substantially deteriorated or diminished by any works undertaken in accordance with a declaration made by the Lieutenant-Governor under section 6, the canal-officer shall be bound to provide within convenient distance an adequate supply of good drinking-water in lieu of that so deteriorated or diminished, and no person shall be entitled to claim any further compensation in respect of the said deterioration or diminution.

Limitation of claims.

13. No claim for compensation for any such stoppage, diminution or damage shall be entertained after the expiration of six months from such stoppage, diminution or damage, unless the Collector is satisfied that the claimant had sufficient cause for not making the claim within such period.

Enquiry into claim and tender of compensation.

14. On the day fixed in the notice mentioned in section 9, the Collector shall proceed to enquire summarily into the claim and to determine the amount of compensation which in his opinion should be allowed therefor, and shall tender such amount to the persons interested who have attended in pursuance of the notice given under section 9.

Power to summon witnesses.

For the purpose of such enquiry, the Collector shall have power to summon and enforce the attendance of witnesses and to compel the production of documents by the same means, and, as far as may be, in the same manner, as is provided in the case of a civil Court under the Code of Civil Procedure.

Postponement of enquiry.

15. The Collector may, if no claimant attends pursuant to the notice, or if for any other cause he thinks fit, from time to time postpone the enquiry to a day to be fixed by him.

Award in case of compensation being agreed on.

16. If the Collector and the persons interested agree as to the amount of compensation to be allowed, the Collector shall make an award under his hand for the same.

Award to be filed and to be evidence.

Such award shall be filed in the Collector's office, and shall be conclusive, as between the Collector and the persons interested, of the value of the said property and the amount of compensation allowed for the same.

Collector to refer matter to Court when compensation not accepted.

17. If the Collector and the persons interested do not agree as to the amount of compensation to be allowed, or if upon the said enquiry any question respecting the title to the property of which the value has been diminished, or

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[a] Act No. XV of 1877, section 2.

any right thereto, or interest therein, arises between or among two or more persons making conflicting claims in respect thereof, the Collector shall refer the matter to the determination of the Court in manner hereinafter provided.

Collector to record particulars in certain cases.

18. If, when the Collector proceeds to make the enquiry as mentioned in sections 14 and 15, no claimant attends, or if any person whom the Collector has reason to think interested does not attend, the Collector shall hold a proceeding and record the following particulars:—

(*a*) the nature and extent of the property of which the value has been diminished and in respect of which compensation is claimed, and the character and extent of the damage done;

(*b*) the names of the persons whom he has reason to think interested in such property;

(*c*) the amount fixed by him as compensation; and

(*d*) the grounds on which such amount was determined;

And to place amount of compensation in deposit.

and shall place the amount so fixed by him in deposit, there to be held on account of the persons interested, and shall issue a notice to the persons believed to be interested, informing them that the said amount has been deposited as required by this section, and that should no application be made to the Court (as provided in the next succeeding section) within six weeks of the issue of the notice on the last of the persons named therein, the Collector will pay the amount to any persons legally authorized to receive and to give an acquittance for the same.

Objections to amount of compensation fixed by Collector.

19. Any person on whom notice may be served under the last preceding section, and any person interested in any property in respect of which such notice has been issued, may, within six weeks of the service of such notice, apply to the Court stating his objection to the amount of compensation as fixed by the Collector under the last preceding section, and the amount which he claims as compensation.

On receipt of such application, the Court shall proceed to determine the amount of compensation to be paid on account of the claim and all other matters, as if a reference had been made to it under section 17.

Procedure in making reference.

20. In making reference under section 17, the Collector shall state, for the information of the Court, the particulars mentioned in section 18.

Procedure on receipt of reference under section 17.

21. On receipt of a reference under section 17, the Court shall proceed, as far as may be practicable, in accordance with sections 19 to 23 (inclusive), and sections 26 to 36 (inclusive), of the Land Acquisition Act, 1870:

Provided that, instead of the last clause of the said section 26, the following shall be read: "The provisions of this section and of section 11

of the Bengal Irrigation Act, 1876, shall be read to every assessor in a language which he understands, before he gives his opinion as to the amount of compensation to be awarded."

Particulars of apportionment to be specified.

22. Where there are several persons interested, if such persons agree in the apportionment of the compensation, the particulars of such apportionment shall be specified in the award, whether such award be made by the Collector or by the Court, and as between such persons the award shall be conclusive evidence of the correctness of the apportionment.

Disputes as to apportionment.

23. When the amount of compensation has been settled under section 16, if any dispute arises as to the apportionment of the same or any part thereof, the Collector shall refer such dispute to the decision of the Court.

All costs entailed by such a reference, and the proceedings of the Court thereon, shall be paid by the parties who dispute the apportionment of the compensation, in such proportions as the Court may direct, and the Collector shall not be required to disburse any such costs, nor shall any such costs be recovered from the Collector.

Determination of proportions.

24. When the amount of compensation has been settled by the Court, and there is any dispute as to the apportionment thereof, or when a reference to the Court has been made under the last preceding section, the Judge sitting alone shall decide the proportions in which the persons interested are entitled to share in such amount.

Appeal.

An appeal shall lie from every such decision to the High Court, unless the Judge whose decision is appealed from is not the District Judge, in which case the appeal shall lie, in the first instance, to the District Judge.

Every appeal under this section shall be presented within the time and in manner provided by the Code of Civil Procedure for regular appeals in suits.

Payment of compensation.

25. Payment of the compensation shall be made by the Collector in accordance with the award made by him under section 16; or the proceeding held by him under section 18, if no application be made to the Court as provided by section 19; or the award made by the Court or the decision of the Judge under section 21; or, in the case of an appeal, under section 24, in accordance with the decision in appeal, as the case may be.

Government not liable to further claim.

26. The amount of compensation fixed by any award, proceeding or decision, as specified in the last preceding section, shall be deemed to be the full amount payable by the Government in respect of the claim dealt with therein; and the Government shall not be liable for any further claim to any person whatever in respect of any matter which was the subject of such award, proceeding or decision; nor shall any such claim be made against the Government in respect of the payment of any portion of such compensation in accordance with any award, proceeding or decision as aforesaid, or in accord-

ance with any decision of the Judge, or of the District Judge, or of the High Court in appeal, as the case may be, under section 24; and no suit shall be brought to set aside an award or decision under this Act.

Liability of person receiving compensation not affected.

27. Nothing contained in the last preceding section shall affect the liability of any person who may receive the whole or any part of any compensation awarded under this Act to pay the same to the person lawfully entitled thereto.

Abatement of rent on interruption of water-supply.

28. Every tenant holding under an unexpired lease, or having a right of occupancy, who is in occupation of any land at the time when any stoppage or diminution of the supply in respect of which compensation is allowed under section 11 takes place, may claim an abatement of the rent previously payable by him for the said land, on the ground that the interruption reduces the value of the holding; provided that no part of the said compensation shall have been received by the said tenant in respect of such reduction in the value of his holding.

Enhancement of rent on restoration of water-supply.

29. If a water-supply increasing the value of such holding is afterwards restored to the said land otherwise than at the cost of the tenant, the rent of the tenant may be enhanced, in respect of the increased value of such land due to the restored water-supply, to an amount not exceeding that at which it stood immediately before the abatement.

Such enhancement shall be on account only of the restored water-supply, and shall not affect the liability of the tenant to enhancement of rent on any other grounds.

Compensation when due.

30. All sums of money payable for compensation under this Part shall become due three months after the claim for such compensation is made in respect of the stoppage, diminution or damage, complained of, and simple interest at the rate of six per centum per annum shall be allowed on any such sum remaining unpaid after the said three months, except where the non-payment of such sum is caused by the wilful neglect or refusal of the claimant to receive the same:

Interest.

Collector may invest amount deposited or awarded in Government securities.

Provided that the Collector may at any time invest the whole or any portion of the amount payable as compensation under this Act in any Government securities, and such securities shall be held by the Collector for the benefit of the persons interested, and the persons interested shall be bound to receive such securities with any interest which may have accrued upon them as full payment of the sum which the Collector paid for such securities, and of any sum which he may have paid as expenses incurred in purchasing the same, and of any interest which might otherwise have accrued on such sums.

No compensation in respect of prior works.

31. No compensation shall be claimable under this Act in respect of any works executed before it came into force, or of any damage, injury or loss caused by such works.

Service of notice.

32. Service of any notice under this Part shall be made by delivering or tendering a copy thereof signed by the officer therein mentioned.

Whenever it may be practicable, the service of the notice shall be made on the person therein named.

When such person cannot be found, the service may be made on any adult male member of his family residing with him; and if no such adult male member can be found, the notice may be served by fixing the copy on the outer door of the house in which the person therein named ordinarily dwells or carries on business; and if such person has no ordinary place of residence within the district, service of any notice may be made by sending copy of such notice by post in a registered cover addressed to such person at his usual place of residence.

PART III.

Of the Maintenance of Canals.

Entry for enquiry.

33. Whenever it shall be necessary to make any enquiry or examination in connection with a projected canal or with the maintenance of an existing canal, or with a projected flood-embankment, or with the maintenance of an existing flood-embankment, any canal-officer or other person acting under the general or special orders of a canal-officer may enter upon such lands as he may think necessary for the purpose, and may exercise all powers and do all things in respect of such lands as he might exercise and do if the Government had issued a notification under the provisions of section 4 of the Land Acquisition Act, 1870, to the effect that land in that locality is likely to be needed for a public purpose; and may set-up and maintain water-gauges, and do all other things necessary for the prosecution of such enquiry and examination.

Power to inspect and regulate water-supply.

34. Such canal-officer or other person may also enter upon any land, building or village-channel on account of which any water-rate is chargeable, for the purpose of inspecting or regulating the use of the water supplied, or of measuring the lands irrigated thereby or chargeable with a water-rate, and of doing all things necessary for the proper regulation and management of the canal from which such water is supplied.

Power to enter for repairs, and to prevent accidents.

35. In case of any accident being apprehended or happening to a canal or flood-embankment, any canal-officer, or any person acting under his general or special orders in this behalf, may enter upon any lands adjacent to such canal or flood-embankment, and may execute all works which may be necessary for the purpose of preventing such accident, or repairing any damage done.

Notice to occupier of building, &c.

36. When such canal-officer or person proposes, under the provisions of either of the three last preceding sections, to enter into any building or enclosed Court or garden attached to a dwelling-house not supplied with water flowing from any canal, and not being adjacent to a flood-embankment, he shall previously give to the occupier of such building, Court or garden such reasonable notice as the urgency of the case may allow.

Compensation for damage to land.

37. In every case of entry upon any land or building under section 7, section 33, section 34 or section 35, the canal-officer or person making the entry shall ascertain and record the nature of any crop, tree, building or other property to which damage has been done, and the extent of the damage done to any such property, and shall tender compensation to the proprietors or occupiers for all damage done to the same by the entry or by any works executed.

If such tender is not accepted, the canal-officer shall refer the matter to the Collector, who shall thereupon give notice in writing to the person interested in such land and to the canal-officer, requiring them to attend before him, on a date to be fixed in the notice, for the purpose of making enquiry as to the amount of compensation.

Appeal from Collector's decision to Commissioner.

38. After such enquiry as he may think necessary, the Collector shall decide the amount of compensation payable; and such decision shall be subject to an appeal to the Commissioner of the division; provided that such appeal be presented to the Commissioner, or to the Collector for transmission to the Commissioner, within thirty days of the decision appealed against.

If no such appeal be preferred, the decision of the Collector, or if such appeal be preferred, the decision of the Commissioner, shall be final and conclusive.

Government to provide means of crossing canals and of drainage.

39. Suitable means of crossing canals constructed or maintained at the cost of Government shall be provided at such places as the Lieutenant-Governor thinks necessary for the reasonable convenience of the inhabitants of the adjacent lands; and suitable bridges, culverts or other works shall be constructed to prevent the drainage of the adjacent lands being obstructed by any canal.

Collector to certify to Government that means of crossing canals and drainage have been provided.

On the completion of any canal or of any convenient section of any canal, the Collector, after causing such inspection to be made as may be necessary, shall certify to the Government that suitable and sufficient means of crossing the canal, and suitable and sufficient means of drainage as aforesaid, have been provided; or shall report in what respects the provision made for the above purposes is defective; and if at any time after he shall have given such certificate, it shall be brought to his notice that the provision made as above has proved insufficient, the Collector shall cause inquiry to be made into the circumstances of the case, and if the statement is established, shall report his

opinion thereon for the consideration of the Lieutenant-Governor, and the Lieutenant-Governor shall cause such measures in reference thereto to be taken as he thinks proper.

PART IV.

OF DRAINAGE.

Lieutenant-Governor may prohibit formation of obstructions within certain limits.

40. Whenever it appears to the Lieutenant-Governor that injury to the public health or public convenience, or to any canal, or to any land for which irrigation from a canal is available, has arisen or may arise from the obstruction of any river, stream or natural drainage-course, the Lieutenant-Governor may, by notification published in the *Calcutta Gazette*, prohibit, within limits to be defined in such notification, the formation of any such obstruction, or may, within such limits, order the removal or other modification of such obstruction.

Thereupon so much of the said river, stream or natural drainage-channel as is comprised within such limits shall be held to be a drainage-work as defined in section 3.

Canal-officer may issue notice to person causing obstructions.

41. The canal-officer or other person authorized by the Lieutenant-Governor in that behalf may, after such publication, issue an order to the person causing or having control over any such obstruction, to remove or modify the same within a time to be fixed in the order.

Canal-officer may cause obstructions to be removed.

42. If, within the time so fixed, such person does not comply with the order, the canal-officer may cause the obstruction to be removed or modified; and if the person to whom the order was issued does not, when called upon, pay the expenses of such removal or modification, such expenses shall be recoverable as a demand under the provisions of section 1, Bengal Act VII of 1868 [a] (*an Act to make further provision for the recovery of arrears of land-revenue and public demands recoverable as arrears of revenue*).

When drainage-works necessary, Lieutenant-Governor may order scheme to be drawn up and carried out.

43. Whenever it appears to the Lieutenant-Governor that any drainage-works are necessary for the public health, or for the improvement or proper cultivation or irrigation of any lands in districts to which the provisions of the Bengal Embankment Act, 1873, [b] do not apply, or that protection from floods or other accumulations of water, or from erosion by a river, is required for any lands,

the Lieutenant-Governor may cause a scheme for such works to be drawn up and carried into execution, and the persons authorized by the Lieutenant-Governor to draw up and execute such scheme may exercise in connection therewith all or any of the powers conferred on canal-officers by sections 33,

[a] See *supra*, p. 582.

[b] See *supra*, p. 767.

34 and 35, and shall be liable to any or all of the obligations imposed upon canal-officers by sections 36 and 37.

Disposal of claims to compensation

44. Whenever, in pursuance of a notification made under section 40, any obstruction is removed or modified;

or whenever any drainage-work is carried out under the last preceding section,

all claims for compensation on account of any loss consequent on the removal or modification of the said obstruction, or the construction of such work, may be made before the Collector, and he shall deal with the same in the manner provided in Part II; but no compensation shall be allowed for any damage arising from increase of percolation.

Limitation of such claims.

45. No such claim shall be entertained after the expiration of six months from the occurrence of the loss complained of, unless the Collector is satisfied that the claimant had sufficient cause for not making the claim within such period.

PART V.

Of Village-channels.

"Person" defined.

46. "Person" in this Part includes any number of persons acting jointly.

Register of village-channels to be kept.

47. The canal-officer shall keep a register of all village-channels, whether already existing or constructed under this Act, and shall note thereon in respect of every village-channel whether it is a public channel maintained at the cost of the Government, or a private channel maintained at the cost of the owners; and shall register the names of the owners of every such private channel.

Extension or branch of village-channel to be registered.

A village-channel made as an extension of, or a branch to, an existing village-channel shall be registered as a separate village-channel; and so much of the length of any village-channel as lies within the limits of any one village or mauza shall be entered on the register as a separate village-channel.

Every section of a village-channel so separately entered on the register shall be deemed to be a separate village-channel in respect of all rights and liabilities imposed by this Act:

Canal-officer may register as one village-channel section including portions lying within two or more villages.

Provided always that, whenever it shall seem fit to the canal-officer for any special reason to enter upon his register as one village-channel a section of a village-channel which includes portions lying within two or more villages or mauzas, the canal-officer may, with the consent of the Collector obtained in writing, register such section as one village-channel, and such section shall be deemed to be one village-channel in respect of all rights and liabilities imposed by this Act.

Person may

48. Any person may, with the consent of the canal-officer, acquire the

acquire existing village-channel by agreement.

property in an existing village-channel for the purpose of improving or maintaining it—

(*a*) by taking over any village-channel belonging to Government;

(*b*) by transfer of a village-channel from the owner thereof by private agreement.

Construction of new village-channel.

49. Any person may, with the permission of a canal-officer, construct a new village-channel if he has obtained the consent of the owners and occupiers of the land required therefor.

Application by person desiring construction of new village-channel.

50. Any person desiring the construction of a new village-channel, but being unable or unwilling to construct it under a private arrangement with the owners and occupiers of the land affected, as mentioned in the last preceding section, may apply in writing to the canal-officer stating

that he desires the said canal-officer, in his behalf and at his cost, to do all things necessary for constructing such village-channel;

that he is ready to defray all costs necessary for acquiring the land and constructing such village-channel.

Procedure when canal-officer considers construction of village-channel expedient.

51. If the canal-officer considers the construction of such village-channel expedient, he may call upon the applicant to deposit any part of the expense such officer may consider necessary,

and upon such deposit being made, shall cause inquiry to be made into the most suitable alignment for the said village-channel,

and shall mark out the land which, in his opinion, it will be necessary to occupy for the construction thereof,

and shall forthwith publish a notification in every village through which the village-channel is proposed to be taken, that so much of such land as is situated within such village has been so marked out,

and shall send a copy of such notification to the Collector of every district in which any part of such land is known to be situate for publication on such land.

Notice to person wishing to be joint owner.

Such notification shall also call upon any person who wishes to be admitted a joint owner of such village-channel to make his application in that respect within thirty days of the publication of such notification.

If any such applicant appears, and his application is admitted, he shall be liable to pay his share in the construction of such village-channel and in the cost of acquiring such land, and shall be an owner of such village-channel when constructed.

Collector to acquire land.

52. On receipt of copy of such notification, the Collector shall proceed to acquire such land under the provisions of the Land Acquisition Act, 1870, as if a declaration had been issued by the Government for the acquisition thereof under section 6 of that Act, and as if the Government had thereupon directed the Collector to take order for the acquisition of such land under section 7

of the said Act, and (if necessary) as if the Government had issued orders for summary possession being taken under section 17 of the said Act.

Procedure after construction of village-channel.

53. On being put in possession of the land, the canal-officer shall construct the required village-channel; and on its completion shall give to the applicant notice thereof, and of any sum payable by him on account of the cost of acquiring the land and constructing the village-channel.

On such notice being given, such sum shall be due from the applicant to the canal-officer.

On receipt of payment in full of all expenses incurred, the canal-officer shall make over possession of such village-channel to such applicant.

Canal-officer may direct transfer of village-channel.

54. Whenever a canal-officer considers that the transfer of a village-channel from the owner is necessary for the proper management of the irrigation from such village-channel, he may cause a notice to be served on the registered owner to appear on a certain day, not less than fifteen days after service of notice, and to prefer any objection to such transfer.

After hearing such objection, the canal-officer may order that such village-channel shall be transferred to such person as he may think fit, and that such person be registered as owner of the said village-channel:

Provided that no person shall be registered as the owner of a village-channel under this section, unless he has expressed in writing his willingness to be so registered, and until he has paid to the canal-officer such sum as may be fixed by the canal-officer under section 56.

Person may be admitted joint owner of existing village-channel.

55. Any person wishing to become the joint owner of an existing village-channel may petition the canal-officer to that effect, and on receipt of such petition the canal-officer may, if he think fit, issue a notice as provided in the last preceding section upon the registered owner, and after hearing any objection which the registered owner may prefer against the admission of such applicant to be a joint owner, may direct that the applicant shall be registered as such joint owner.

Canal-officer to fix sums payable on transfer or acquisition of joint ownership.

56. When deciding the question of transfer or of admission to joint ownership under either of the two last preceding sections, the canal-officer shall also determine what amount shall be paid

as the costs of the proceedings;

as compensation to the previous owners;

and the amount so determined shall be due by the transferee or the person admitted to registry as a joint owner, as the case may be; and on payment of such amount, the village-channel shall be transferred, or the applicant shall be registered as owner or as a joint owner thereof, as the case may be.

Canal-officer may fix rent

57. Instead of awarding payment of compensation under the last preceding section, the canal-officer may fix an amount of rent to be paid annually

for a village-channel transferred.

to the previous owners by the persons to whom the village-channel is transferred.

Ownership of village-channel.

58. Every person

(*a*) acquiring a village-channel as provided in section 48; or

(*b*) constructing a village-channel as provided in section 49; or

(*c*) receiving possession of a village-channel as provided in section 53; or

(*d*) acquiring a village-channel by transfer, as provided in section 54; or

(*e*) being admitted to registration as joint owner in a village-channel, as provided in section 55,

shall be deemed to be an owner of such village-channel.

Obligations and rights of owner of village-channel.

59. Every owner of a village-channel shall be bound

(*a*) to construct and maintain all works necessary for the passage across such village-channel of canals, village-channels, drainage-channels and public roads existing at the time of its construction, and of the drainage intercepted by it, and for affording proper communications across it for the convenience of the occupants of neighbouring lands;

(*b*) to maintain such village-channel in a fit state of repair for the conveyance of water;

(*c*) to allow the use of it to others on such terms as may be declared equitable by the canal-officer as hereinafter prescribed;

and shall be entitled

(*d*) to have a supply of water by such village-channel at such rates and on such terms as are prescribed by the rules made by the Lieutenant-Governor under section 99;

(*e*) to receive such rent for the use of the village-channel by other persons as the canal-officer may award him.

If owner of village-channel fails to execute work or repair, canal-officer may do so.

60. If the owner of a village-channel fails to fulfil the obligations mentioned in clauses (*a*) and (*b*) of the last preceding section, the canal-officer may require him by notice to execute the necessary works or repairs within a period not being less than fifteen days, and in the event of failure, may execute them on his behalf; and all expenses incurred by the execution of such works or repairs shall be a sum due by such owner to Government; and if any such owner who has already failed on one occasion to execute such works or repairs when required to do so, and has left them to be executed on his behalf by the canal-officer, shall again fail to execute any such works or repairs when required to do so; or if any such owner shall refuse in any respect to fulfil the obligation mentioned in clause (*c*) of the last preceding section, after having been required to fulfil the same by a notice in writing from the canal-officer, the canal-officer may strike such village-channel off the register, and so disqualify it to be any longer a medium for the conveyance of canal-water.

Resignation of ownership.

61. Any owner may resign his interest in a village-channel, provided such resignation be duly registered in the office of the canal-officer.

Owner may transfer interest.

62. Any owner of a village-channel may, with the consent of the canal-officer, transfer his interest to any other person, provided that the liabilities of the person so transferring shall not cease till such transfer is registered in the office of the canal-officer.

Procedure on death of owner of village-channel.

63. If any owner of a village-channel dies, his legal representative may apply for registration in his stead.

If no such application for registry be made within six weeks from the death of the said owner, the remaining registered owners of the village-channel, if any, shall be deemed to be owners of the entire interest in the village-channel, until some other person shall have established his claim to be registered as owner in place of the deceased.

If the deceased shall have been the sole registered owner, the canal-officer shall be deemed to be his representative for the purposes of this Part, and shall exercise all rights and be bound by all liabilities which attached to the deceased in respect of his ownership of the said village-channel, until some person shall have established his right to be registered as owner thereof in place of the deceased; and the canal-officer shall account to such person for all sums received and expended in the exercise of the rights and discharge of the liabilities which attached to the deceased in respect of such ownership.

Procedure when person applies for registration in lieu of deceased owner.

64. When any person applies for registration under the three last preceding sections, the canal-officer shall serve notice on the other registered owners to prefer any objection to the resignation, transfer or succession within fifteen days, and if no such objection shall be made, or if the objections made be deemed invalid, shall order such resignation, transfer or succession to be registered.

Interest of owners equal, unless unequal interests registered.

65. All joint owners of a village-channel shall be held to have an equal interest in it, unless, with the permission of the canal-officer, they register specific unequal interests.

Supply of water to person not owner.

66. Any person not an owner of a village-channel, desiring to have a supply of water through such village-channel, may make a private arrangement with the owners for the conveyance of water, or may apply to the canal-officer for authority to use such village-channel.

Canal-officer may authorize supply.

67. On receipt of such application, the canal-officer shall serve notice on the owners to shew cause why such permission should not be granted, and if no objection be raised, or if any objections be raised and found invalid, shall authorize the conveyance of such supply on such conditions as may appear to him equitable.

Canal-officer to fix rent of village-channel.

68. The canal-officer shall also fix a sum as rent to be paid for the use of such village-channel to the owner.

Such rent may be in the form of a percentage on the water-rate of the person using the village-channel, or otherwise, as may be fixed by the canal-officer.

Owner of village-channel receiving supply through another village-channel.

69. The owner of a village-channel which receives its water through another village-channel may, at the discretion of the canal-officer, either be declared a joint owner of such other village-channel, or may be required to pay rent for the use of the same to the owner thereof, as provided in the last preceding section.

Instalments in which rent is payable.

70. All rent payable under either of the two last preceding sections shall be deemed to be due in the same instalments and at the same periods as the water-rate is due, or in such other instalments and at such other dates as the canal-officer may direct, and may be collected by the canal-officer on behalf of the person entitled to it, if the canal-officer thinks fit.

Canal-officer to pay no more than amount collected.

71. Any canal-officer collecting rent under the last preceding section on behalf of any person entitled thereto, shall be bound to pay to the person entitled to the same no more than the amount actually collected by him as rent.

Land acquired not to be used for other purpose.

72. No land acquired under this Part for a village-channel shall be used for any other purpose without the consent of the canal-officer previously obtained.

Dues how recovered.

73. Every sum declared to be due under this Part shall be recoverable by the canal-officer on behalf of the Government or of the person entitled to receive the same, and shall be held to be a demand under the provisions of section 1 of the aforesaid Bengal Act VII of 1868,[a] or any other similar Act for the time being in force.

PART VI.

Of the Supply of Water.

Water supplied on written application only.

74. Every person desiring that water shall be supplied to his land from a canal, shall present a written application to that effect to the canal-officer, in the form given in schedule (B) hereto annexed, or in a similar form, binding himself by the rules made by the Lieutenant-Governor under the powers vested in him by this Act; and no person shall be liable to pay any rate or due whatever, on account of water supplied to his land with the permission of the canal-officer, otherwise than on such application, nor shall water be supplied otherwise than on such application.

Written permission to be given.

75. If the application mentioned in the last preceding section be granted by the canal-officer, the canal-officer shall cause his permission to be recorded

[a] See *supra*, p. 582.

in the form given in schedule (C) hereto annexed, or in some similar form, binding himself by the rules made by the Lieutenant-Governor as aforesaid.

76. All rules made by the Lieutenant-Governor under section 99 shall be consistent with the following conditions:— Rules subject to conditions as to—

(*a*) The canal-officer may not stop the supply of water to any village-channel, or to any person who is entitled to such supply, except in the following cases:— power to stop water-supply;

(1) whenever and so long as it is necessary to stop such supply for the purpose of executing any work ordered by competent authority;

(2) whenever and so long as any village-channel is not maintained in such repair as to prevent the wasteful escape of water therefrom;

(3) whenever and so long as it is necessary to do so in rotation to supply the legitimate demands of other persons entitled to water;

(4) whenever and so long as it may be necessary to stop the supply in order to prevent the wastage or misuse of water:

(*b*) No claim shall be made against the Government for compensation in respect of loss caused by the failure or stoppage of the water in a canal, by reason of any cause beyond the control of the Government, or of any repairs, alterations or additions to the canal, or of any measures taken for regulating the proper flow of water therein, or for maintaining the established course of irrigation which the canal-officer considers necessary; but the person suffering such loss shall be entitled to such remission of the ordinary charges payable for the use of the water as is authorized by the Lieutenant-Governor: claims to compensation in case of failure or stoppage of supply;

(*c*) If the supply of water to any land irrigated from a canal be interrupted otherwise than in the manner described in the last preceding clause, the occupier or owner of such land may present a petition for compensation to the Collector for any loss arising from such interruption, and the Collector shall award to the petitioner reasonable compensation for such loss: claims on account of interruption from other causes;

(*d*) When the water of a canal is supplied for the irrigation of a single crop, the permission to use such water shall be held to continue only until that crop comes to maturity, and to apply only to that crop; but if it be supplied for irrigating two or more crops to be raised on the same land within the year, such permission shall be held to continue for one year from the commencement of the irrigation, and to apply to such crops only as are matured within that year: duration of supply;

(*e*) No person entitled to use the water of any canal, or any work, building or land appertaining to any canal, shall sell or sub-let or otherwise transfer his right to such use without the permission of the canal-officer, but all contracts made between Government and the owner or occupier of any immoveable property, as to the supply of canal-water to such property, sale or sub-letting of right to use canal-water; contracts for water transferable with land.

shall be transferable therewith, and shall be presumed to have been so transferred whenever a transfer of such property takes place.

Canal-officer may supply water for purposes other than those of irrigation.

77. On application being made for a supply of water to be used for purposes other than those of irrigation, the canal-officer may give permission for water to be taken for such purposes under such special conditions and restrictions as to the limitation and control of the supply as he shall think proper to impose in each case.

PART VII.

Of Water-rates.

Charge for water how determined.

78. The rates to be charged for canal-water supplied for purposes of irrigation shall be determined by the Lieutenant-Governor, and all persons accepting the water shall pay for it accordingly.

Liability when person using water unauthorizedly cannot be identified.

79. If water supplied through a village-channel be used in an unauthorized manner, and if the person by whose act or neglect such use has occurred cannot be identified,

the persons on whose land such water has flowed, if such land has derived benefit therefrom,

or if no land has derived benefit therefrom, all the persons chargeable in respect of the water supplied through such village-channel in respect of the crop then on the ground,

shall be liable to the charges made for such use, as determined by the Lieutenant-Governor under section 99.

Liability when water runs to waste.

80. If water supplied through a village-channel be suffered to run to waste, and if, after enquiry by the canal-officer, the person through whose act or neglect such water was suffered to run to waste cannot be discovered, all the persons chargeable in respect of the water supplied through such village-channel for the crop then on the ground shall be jointly liable for the charges made in respect of the water so wasted, as determined by the Lieutenant-Governor under section 99.

All questions arising under this and the last preceding section shall be decided by the canal-officer, subject to the provisions of section 91.

Charges recoverable in addition to penalties.

81. All charges for the unauthorized use or for waste of water shall be deemed to be water-rate due on the crop, and may be recovered as such water-rate in addition to any penalties incurred on account of such use or waste.

Power to contract for collection of canal-dues.

82. The canal-officer may enter into an agreement with any person for the collection and payment to the Government by such person of any sum payable under this Act by a third party.

Sum payable under this Part deemed to be rent.

83. Any sum lawfully due under this Part, either to the Government, or to any person who has entered into an agreement to collect dues for the Government and certified by the canal-officer to be so due, shall be deemed to be rent payable on a pattá or engagement in respect of the land irrigated, and shall be recoverable as such by the person to whom it is payable:

Provided that the claim (if any) for rent in respect of such land shall have priority over any claim for arrears of water-rate so far as regards recovery of rent by the exercise of the power of restraint.[a]

Person who distrains may be called on to produce account.

84. If any person distrains half or more than half of any crop on account of which water-rate is due, such person shall be bound, on requisition by the canal-officer, to furnish him with an account shewing how the produce thus distrained has been appropriated in payment of such rent, and the canal-officer shall be entitled to challenge such account before any Court competent to try suits for arrears of rent in respect of the land in question, and such Court, if it finds that the value of the crop distrained was in excess of the amount of rent which had been due for a period not longer than a year, together with the costs of the distraint, may require the distrainer to pay the water-rate due on such crop.

Arrears of water-rate deemed demand under Bengal Act VII of 1868.

85. Every arrear of water-rate which is due to Government, and every sum due to Government by any person on account of collections of water-rate, and every sum due to such person on account of water-rate and certified by the canal-officer to be so due, shall also be held to be a demand under the provisions of section 1 of the aforesaid Bengal Act VII of 1868,[b] and may be recovered as provided in that Act, together with the costs of executing the processes.

Sections not applying to fines.

86. Nothing in sections 82 to 85 (inclusive) applies to fines.

PART VIII.

Of Jurisdiction.

Settlement of disputes as to mutual rights and liabilities of persons interested in village-channel.

87. Whenever a dispute arises between two or more persons in regard to their mutual rights or liabilities in respect of the use, construction or maintenance of a village-channel, any such person interested may apply in writing to the canal-officer stating the matter in dispute.

Such officer shall thereupon give notice to the other persons interested that, on a day to be named in such notice, he will proceed to enquire into the said matter, and, after such enquiry, he may pass his order thereon, or may transfer the matter to the Collector, who shall thereupon enquire into and pass his order on the said matter.

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[a] *Sic.* Read "distraint." [b] See *supra*, p. 582.

Dispute as to shares and payments.

88. Whenever any dispute arises among joint owners of a village-channel as to their shares of expense or as to the amounts severally contributed, or as to failure on the part of any owner to contribute his share, the matter may be decided after inquiry by the canal-officer or Collector, as provided in the last preceding section.

Order passed by Collector and canal-officer to remain in force until set aside by civil Court.

89. Any order passed by the Collector, under either of the two last preceding sections, and, subject to the provisions of section 91, any such order passed by a canal-officer, shall remain in force until set aside by the decree of a civil Court, and may be executed by any canal-officer as if it were a decree of the civil Court.

Jurisdiction as to suits arising out of powers of distraint.

90. All suits arising out of the exercise of the power of distraint for recovery of water-rates,

or out of any acts done under colour of the exercise of the said power of distraint,

or by persons in receipt of the water-rates against any agents employed by them in the collection of such water-rates, or the sureties of such agents for money received or for accounts kept by such agents in the course of such employment, or for papers in their possession,

shall be cognizable by the same Court or authority as would have jurisdiction if such water-rates were rent due for the land irrigated.

Appeal and supervision.

91. Every order passed by a canal-officer under Part V, Part VI, Part VII or Part VIII of this Act, shall be appealable to the Collector, provided that the appeal be presented within thirty days of the date on which the canal-officer made the order appealed against; and no appeal shall lie against any proceeding or order of the Collector under this Act, except as otherwise expressly provided in this Act, but all such proceedings and orders shall be subject to the supervision and control of the Commissioner of the division and of the Board of Revenue, who may pass such order thereon as they may respectively think fit.

Power to summon and examine witnesses.

92. Any officer empowered under this Act to conduct any enquiry may exercise all such powers connected with the summoning and examining of witnesses, as are conferred on civil Courts by the Code of Civil Procedure; and every such enquiry shall be deemed a judicial proceeding.

PART IX.

Of Offences and Penalties.

Offences under Act.

93. Whoever, voluntarily and without proper authority, does any of the acts following, that is to say—

(1) damages, alters, enlarges or obstructs any canal or drainage-work;

(2) interferes with, increases or diminishes the supply of water in, or the flow of water from, through, over or under, any canal or drainage-work, or by any means raises or lowers the level of the water in any canal or drainage-work;

(3) being responsible for the maintenance of a village-channel, or using a village-channel, neglects to take proper precautions for the prevention of waste of the water thereof, or interferes with the authorized distribution of the water therefrom, or uses such water in an authorized manner;

(4) corrupts or fouls the water of any canal so as to render it less fit for the purposes for which it is ordinarily used;

(5) destroys, defaces or moves any level-mark or water-gauge fixed by the authority of a public servant;

(6) destroys or removes any apparatus, or part of any apparatus, for controlling or regulating the flow of water in any canal or drainage-work;

(7) passes, or causes animals or vehicles to pass, in or across any of the works, banks or channels of a canal contrary to rules made under this Act, after he has been desired to desist therefrom;

(8) without the permission of the canal-officer causes, or knowingly and wilfully permits, any cattle to graze upon any flood-embankments, or tethers, or causes or knowingly and wilfully permits any cattle to be tethered upon any such embankments, or roots-up any grass or other vegetation growing on any such embankments, or removes, cuts or in any way injures or causes to be removed, cut or otherwise injured, any trees, bushes, grass or hedge intended for the protection of such embankment;

(9) violates any rule made under the Act, for breach whereof a penalty may be incurred,

shall, in case the offence shall not amount to mischief within the meaning of the Indian Penal Code, and on conviction before a Magistrate, be liable to a fine not exceeding fifty rupees, or to imprisonment for a term not exceeding one month, or to both. Penalty.

94. Whoever, without the authority of the canal-officer, Further offences.

(1) pierces or cuts through, or attempts to pierce or cut through, or otherwise to damage, destroy or endanger the stability of, any flood-embankment;

(2) opens, shuts or obstructs or attempts to open, shut or obstruct, any sluice in any such embankment;

(3) makes any dam or other obstruction for the purpose of diverting or opposing the current of a river on the banks whereof are flood-embankments, or refuses or neglects to remove any such dam or obstruction when so required by the canal-officer,

shall, in case the offence shall not amount to mischief within the meaning of the Indian Penal Code, and on conviction before a Magistrate, be liable to a Penalty.

fine not exceeding two hundred rupees, or to imprisonment for a term not exceeding six months.

Obstruction to be removed and damage repaired.

95. Whenever any person is convicted of an offence under either of the last two preceding sections, the convicting Magistrate may order that he shall remove the obstruction or repair the damage in respect of which the conviction is held within a period to be fixed in such order.

If such person neglects or refuses to obey such order within the fixed period, the canal-officer may remove such obstruction, or repair such damage, and the cost of such removal or repair shall be levied from such person by the Collector as a demand under section 1 of the aforesaid Bengal Act VII of 1868.[a]

Persons employed on canal may take offenders into custody.

96. Any person in charge of, or employed upon, any canal, may remove from the lands or buildings belonging thereto, or may take into custody without a warrant and take forthwith before a Magistrate or to the nearest Police-station, to be dealt with according to law, any person who within his view commits any of the following offences :—

(1) wilfully damages or obstructs any canal;

(2) without proper authority interferes with the supply or flow of water, in or from any canal or in any river or stream, so as to make dangerous or render less useful any canal.

Saving of prosecution under other laws.

97. Nothing herein contained shall prevent any person from being prosecuted under any other law for any offence punishable under this Act: provided that no person shall be punished twice for the same offence.

Compensation to person injured.

98. Whenever any person is fined for an offence under this Act, the Magistrate may direct that the whole or any part of such fine may be paid by way of compensation to any person injured by such offence, or to any person who gave information leading to the detection of such offence, or to the conviction of the offender.

PART X.

Of Subsidiary Rules.

Power to make, alter and cancel rules.

99. The Lieutenant-Governor may, from time to time, make rules to regulate the following matters :—

(*a*) the proceedings of any officer who, under any provision of this Act, is required or empowered to take action in any matter;

(*b*) the cases in which, the officers to whom, and the conditions subject to which, orders and decisions given under any provision of this Act, and not expressly provided for as regards appeal, shall be appealable;

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[a] See *supra*, p. 582.

(*c*) the person by whom, the time, place or manner at or in which, anything for the doing of which provision is made in this Act shall be done;

(*d*) the amount of any charge made under this Act;

(*e*) and generally to carry out the provisions of this Act.

The Lieutenant-Governor may, from time to time, alter or cancel any rules so made.

Such rules, alterations and cancelment shall be published in the *Calcutta Gazette*, and shall thereupon have the force of law [a]: Publication of rules.

Provided that no rules shall be made by the Lieutenant-Governor under the powers conferred on him by this section until a draft of the same shall have been published in the *Calcutta Gazette* for one month, after which time the Lieutenant-Governor may pass such rules as originally published, or with such alterations, additions and omissions as he may think fit.

SCHEDULE A.

(*See section 2.*)

ACTS OF THE LIEUTENANT-GOVERNOR OF BENGAL IN COUNCIL.

Number and year.	Subject.	Extent of repeal.
VIII of 1867	Recovery of rates for water supplied by the East India Irrigation and Canal Company.	So much as has not been repealed.
VI of 1869	Recovery of rates for water supplied for purposes of irrigation.	The whole Act.

SCHEDULE B.

(*See section 74.*)

APPLICATION FOR WATER.

No.

Mauza

Pargana

Canal

Village-channel

Name of owner of village-channel

Name of applicant

I, the undersigned, hereby apply for water from the above-named village-

[a] See *Calcutta Gazette*, 23rd October, 1878, Part I, p. 1154.

channel for the fields and crops below detailed, and I engage to pay to the canal-officer, or other person duly authorized to receive them, the water-rates as prescribed by the Lieutenant-Governor under the provisions of the Bengal Irrigation Act, and I further agree to abide by all the rules issued under that Act.

No. of field in revenue-map.	Acreage of field.	Crop to be grown.

Signature or mark of applicant.

*Date*_____

SCHEDULE C.

(*See section 75.*)

PERMISSION TO TAKE WATER.

No.

Permit of village to take water from

Canal

Village-channel

for the undermentioned fields and crops :—

No. of field.	Acreage of field.	Crops to be grown.	Water-rate due.	Date of payment.

Signature of Canal-officer.

*Date*_____

THE CALCUTTA MUNICIPAL CONSOLIDATION ACT, 1876.

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ACT No. IV OF 1876.

Received the Lieutenant-Governor's assent on the 25th of March 1876, and the Governor General's assent on the 6th of April 1876.

An Act to consolidate and amend the law relating to the municipal affairs of Calcutta.

WHEREAS it is expedient to consolidate and amend the law relating to the municipal affairs of the town of Calcutta; It is hereby enacted as follows :— Preamble.

CHAPTER I.

PRELIMINARY.

1. This Act may be cited as "The Calcutta Municipal Consolidation Act, 1876;" Short title.

Commencement.

And it shall come into force on such date as the Local Government may direct, not being more than three months after the date on which it may be published in the *Calcutta Gazette* with the assent of the Governor General.

Enactments repealed.

2. The enactments specified in the tenth schedule are hereby repealed to the extent mentioned in the third column thereof.

This repeal shall not revive any office, authority or thing abolished by any such enactment, or affect the validity of anything done or suffered, or any right, title, obligation or liability accrued before the commencement of this Act.

And all rules prescribed, assessments, valuations, measurements, divisions and appointments made, powers conferred and notifications published under any such enactment, and all other rules (if any) now in force and relating to the matters hereinafter dealt with, shall (so far as they are consistent with this Act) be deemed to have been respectively prescribed, made, conferred and published hereunder.

And all references made to any such enactment shall, as far as may be practicable, be deemed to be made to this Act.

And all proceedings now pending, which may have been commenced under any such enactment, shall be deemed to be commenced under this Act.

In respect to all the matters aforesaid, the Commissioners under this Act shall be substituted for the Justices of the Peace for the town of Calcutta.

Interpretation-clause.

3. In this Act—unless there be something repugnant in the subject or context—

"Animal."

"animal" means a horse, pony, mule or bullock:

"Bázár."

"bázár" means any place of trade, where there is a collection of shops and warehouses, and any place where a market is held:

"Carriage."

"carriage" means any wheeled vehicle with springs used for the conveyance of human beings:

"Cart."

"cart" means any cart, hackery or wheeled vehicle with or without springs, not included in the definition of carriage:

"Chapter."

"chapter" means chapter of this Act:

"Chairman."

"chairman" means the chairman of the Commissioners of the town of Calcutta:

"Commissioner of Police."

"Commissioner of Police" means the officer so styled and appointed under section 4 of the Calcutta Police Act, 1866,[a] or under any other Act for the time being in force for regulating the Police of the town of Calcutta:

"Court of Small Causes."

"Court of Small Causes" means the Court of Small Causes for the time being established by law in Calcutta:

[a] See *supra*, p. 526.

"drug" includes medicine for internal or external use: "Drug."

"house" includes any hut, building or shed: "House."

"immoveable property" and "land" respectively mean land, benefits to arise out of land, anything attached to the earth, or permanently fastened to anything attached to the earth: "Immoveable property." "Land."

"moveable property" means property of every description, except immoveable property: "Moveable property."

"Local Government" means the Lieutenant-Governor of Bengal for the time being, or the person acting in that capacity: "Local Government."

"owner" includes— "Owner.

(*a*) the person entitled for the time being to receive the rent of the land in respect of which the word is used;

(*b*) an agent of such person;

(*c*) a trustee for such person:

But no such agent or trustee shall be liable to do anything required by this Act to be done by the owner, nor shall he be subject to any fine for omitting to do such thing, unless he have sufficient funds in his hands, as such agent or trustee, to do such thing:

"Police-force" means the Police-force as constituted under section 8 of the Calcutta Police Act, 1866, or under any other Act for the time being in force for regulating the Police of the town of Calcutta: "Police-force."

"public street" means any road, street, square, court, alley or passage, whether a thoroughfare or not, over which the public have a right of way, and also the roadway over any public bridge or causeway, and also the footway and drains attached to any street, public bridge (other than the Hugli Bridge), or causeway within the town: "Public street."

"street" means any road, street, square, court, alley or passage not included in the definition of public street: "Street."

"railway" includes a tramway: "Railway."

"schedule" means schedule annexed to this Act: "Schedule."

"section" means section of this Act: "Section."

"slaughter-house" means any place used for the slaughter of cows, or bullocks, or sheep, or goats, or pigs, or kids, for the purpose of selling the same as meat: "Slaughter-house."

"the suburbs" mean the suburbs of Calcutta as defined by the Lieutenant-Governor of Bengal by notification in the *Calcutta Gazette*, under the provisions of Act III of 1864[a] of the Lieutenant-Governor of Bengal in Council, or of any other Act for the time being in force: "The suburbs."

[a] Repealed by Bengal Act No. V of 1876.

"The Commissioners." "the Commissioners" means the Corporation of the town of Calcutta.

"The town." "the town" includes all places within the local limits of the ordinary original civil jurisdiction of the High Court of Judicature at Fort William in Bengal, but not

(*a*) Fort William:

(*b*) the Esplanade; or

(*c*) Coolie Bázár, now called Hastings, except such portion as is bounded on the north by Clyde Row, on the south by Tolly's Nálá, on the east by the road leading from Kidderpore Bridge to Clyde Row, and on the west by the Strand Road.

CHAPTER II.

Of the Municipal Authorities.

Part I.—*Of the Constitution of the Corporation and the Application of the Municipal Fund.*

Constitution of Corporation. 4. The Commissioners of the town of Calcutta shall consist of seventy-two members, to be appointed or elected as hereinafter provided, and shall, by the name of "The Corporation of the town of Calcutta," be a body corporate, and have perpetual succession and a common seal, and by such name shall sue and be sued.

The aforesaid number of seventy-two shall not include the chairman or the vice-chairman of the Commissioners in the event of those two officers not being appointed or elected Commissioners under this Act, but in such case the said chairman and vice-chairman shall be *ex officio* Commissioners.

The said seventy-two members shall be male persons resident within the town or the suburbs, who have attained the age of twenty-one years.

Property to vest in Commissioners for purposes of Act. 5. All property, moveable and immoveable, and all interest of whatsoever nature and kind therein now vested in or held in trust for the Justices of the Peace for the town of Calcutta, with all rights of whatsoever description now used, enjoyed or possessed by the said Justices, shall become vested in the Commissioners for the purposes of this Act.

Number of Commissioners to be appointed by Government. 6. Of the said seventy-two members, twenty-four shall be appointed by the Local Government immediately after the result of the election hereinafter mentioned shall have been published, and such appointment shall take effect from the date on which such election takes place.

Number of Commissioners to be elected. 7. The remaining forty-eight members shall be elected as hereinafter provided by male persons resident within the town or suburbs, who shall have attained the age of twenty-one years.

Voter when entitled to vote in one ward.

8. Any person qualified as aforesaid, who shall have paid, on his own behalf and not otherwise, to the Commissioners on or before the fifteenth day of January, in the year in which the election takes place, any of the rates mentioned in chapter IV, assessed on land or masonry-buildings, or taxes mentioned in Parts I and II of chapter III, or any of the said rates and taxes for the next preceding year, to the aggregate amount of not less than twenty-five rupees, may, if not entitled to vote in more wards than one under the next succeeding section, vote in one only of the wards mentioned in section 13, and may choose the ward in which he resides, or in which his place of business is situated, or in which any of the said land or masonry-buildings is situated.

Voter when entitled to vote in more than one ward.

9. Any person qualified as aforesaid, who shall have paid, on his own behalf and not otherwise, to the Commissioners on or before the fifteenth day of January, in the year in which the election takes place, any of the rates mentioned in chapter IV, assessed on land or masonry-buildings for the next preceding year on account of land or masonry-buildings situated in more than one of the said wards, shall be entitled to vote in each ward in which he shall have been a rate-payer to the extent of twenty-five rupees; and no such person shall be entitled to vote on account of any taxes paid under Parts I and II of chapter III.

The word "land" in this and the last preceding section does not include huts erected on land.

Vote of company.

10. Any company registered under the "Indian Companies' Act, 1866," which has paid any of the said rates or taxes, or rates and taxes, to the aggregate amount of not less than twenty-five rupees on the date and for the period and in the manner mentioned in section 8, shall be entitled to one vote in the ward in which the place of business of the said company is situated, and such vote shall be given by the secretary of the company, or some other person duly authorized in that behalf.

Qualification of elected Commissioners.

11. Every male person shall be qualified for election as a member of the Corporation who shall have severally paid, on his own behalf and not otherwise, to the Commissioners on or before the fifteenth day of January, in the year in which the election takes place, any of the rates mentioned in chapter IV, or taxes mentioned in Parts I and II of chapter III, or any of the said rates and taxes for the next preceding year, to the aggregate amount of not less than fifty rupees:

Provided that no officer of the Corporation shall be qualified for election as a member of the Corporation so long as he shall remain in the employ of the Commissioners, except the chairman and vice-chairman as hereinbefore provided.

Qualification of members of joint family or firm.

12. Where the aggregate amount of rates or taxes, or of rates and taxes, paid by a joint undivided family, or by two or more partners in any trade or business, or by the joint occupiers of any house or land, under chapter IV, or under Parts I and II of chapter III, on the date and for the period and in the manner aforesaid, is not less than one hundred rupees, any one member of such family, or any one of such partners or joint occupiers, may, if otherwise qualified, be eligible for election as a member of the said Corporation.

If the majority of the members of such joint family, or of such partners, or of such joint occupiers, agree to select one of their number, the person so selected shall be eligible for election under this section.

But if the majority do not so agree, the chairman shall decide which of the said members, partners or joint occupiers is so eligible, and such decision shall be final and conclusive.

For purpose of election, town to be divided into wards.

13. For the purpose of the aforesaid election of Commissioners, the town shall be divided into eighteen wards, the boundaries of which are defined in the first schedule.

The first, second, third, fourth, eleventh and eighteenth of the wards described in the said schedule may each elect two Commissioners, and the remaining wards may each elect three Commissioners.

Every person qualified to vote as hereinbefore provided may vote for as many candidates as there are Commissioners to be elected in the ward or wards allotted to such person under section 18, and may give all or any of the votes which he is entitled to give in any one ward to any candidate in that ward.

If ward fails to elect, Local Government may appoint.

14. If the rate or tax-payers of any ward shall fail to elect the number of Commissioners allotted to such ward under the last preceding section, the Local Government shall, in place of such election, appoint one or more Commissioners to complete the number so allotted as aforesaid.

Procedure if person is elected in more than one ward.

15. If any person is elected a Commissioner for more than one of the said wards, he shall, within five days of the date of the election, choose, or, in default thereof, the chairman shall forthwith declare, the ward for which such person shall serve; and such person shall thereupon be held to be elected in that ward only which he shall so choose, or which the chairman shall so declare; and thereupon the rate and tax-payers of the other ward or wards in which the said person has been elected a Commissioner shall forthwith proceed to elect another Commissioner in the manner provided by this Act.

Procedure in case of equality of votes.

16. Where an equality of votes is found to exist between any two candidates at any election under this Act, and the addition of a vote would entitle any of such candidates to be elected a Commissioner, the chairman may give

such additional vote, and the candidate to whom such additional vote has been given shall thereupon be held to be elected a Commissioner.

Time and manner of election.

17. The first election shall take place at any time, not being less than two, or more than three, months from the commencement of this Act; and until such election has taken place, and until the appointment of members by the Local Government takes effect under section 6, this Act shall be read as if all the Justices of the Peace for the town of Calcutta had been respectively appointed or elected Commissioners under this Act.

All subsequent elections, not being elections under section 23, shall take place on the expiration of three years from the date of the previous election.

Votes at all elections shall be rendered by means of voting papers.

The Local Government may from time to time make rules, not being inconsistent with this Act, for the purpose of regulating all matters connected with such elections, and may at any time cancel or modify any of the said rules, and the result of all elections shall be published in the *Calcutta Gazette*.

The Local Government may declare the penalties which shall be incurred by the breach of any such rule, and any person committing a breach of any such rule shall be liable to the penalty so declared: provided that no higher penalty shall be incurred by the breach of any such rule than a fine of fifty rupees.

The expenses of all elections under this Act shall be paid out of the municipal fund.

Registration of voters and persons qualified to be elected.

18. Any person qualified to vote at an election, or to be elected as a Commissioner, may at any time, not being less than six weeks or more than three months before the election takes place, apply personally or by letter to the chairman of the Commissioners for registration of his name as such voter or person qualified as aforesaid, and shall, at the same time, if he is entitled to vote in one ward only, name the ward in which he wishes to vote; and if he is entitled to vote in more than one ward, name the wards in which he is entitled to vote.

On receipt of such application, the chairman shall, if he is satisfied that such person is qualified to vote, or to be elected as aforesaid, enter the name of such applicant in a list, and shall allot to him the ward or wards which he may have named as aforesaid; and no person whose name is not entered in such list at the time of the election shall be qualified to vote, or to be elected as a Commissioner.

If the applicant shall omit to name a ward as aforesaid, the chairman shall allot to him such ward as to the chairman may seem fit, and if the applicant

shall omit to name the wards as aforesaid, the chairman shall allot to him the wards in which he is entitled to vote.

Publication of list.

19. As soon as possible after the commencement of this Act, and subsequently from time to time on any date or dates not less than one month before the election (not being an election under section 23) takes place, the list mentioned in the last preceding section shall be printed and affixed by the chairman of the Commissioners in some conspicuous place in or near his office, and at the Police-station of each of the said wards, or at some conspicuous place in each of the said wards; and the chairman shall forthwith give notice of such publication in one English and one vernacular newspaper published within the town, and the said list shall be open to public inspection at all reasonable times of the day for fifteen days after the date of the publication of such notice.

The chairman shall be at liberty at any time to revise the said list for the purpose of removing therefrom the name of any person not duly qualified and erroneously entered therein, or of recording the name of any person duly qualified and erroneously omitted therefrom.

Appeal from decision of chairman.

20. Any person qualified to vote at an election, or to be elected, whose name is omitted from the list referred to in the last preceding section, may, in case the chairman shall refuse to insert his name in such list, apply to a stipendiary Magistrate of Police for the town of Calcutta, within eight days after such refusal, for an order to have his name inserted in such list, and such Magistrate shall, after enquiry, make such order as to the insertion or omission of the name of the applicant as shall be just; and such order, if it directs the insertion of the name of the applicant in such list, shall be forthwith obeyed by the chairman.

The order of such Magistrate made under this section shall not be appealable.

Erroneous omission or entry does not affect election.

21. No election shall be deemed to be invalid, or shall be in any way affected, by reason of the name of any person duly qualified as aforesaid being omitted from the said list, or by reason of the name of any person not duly qualified as aforesaid being inserted therein; and no election shall be deemed to be invalid by reason only of any defect of form in the conduct thereof.

Term for which members to be appointed or elected.

22. The members of the said Corporation shall be appointed or elected respectively for a term of three years.

At the expiration of the term for which the members of the said Corporation may be appointed or elected respectively, they shall cease to be members of the said Corporation, but shall be eligible to be again appointed or elected members of the said Corporation for a further term or terms:

Provided that the said term of three years shall be held to include any period which may elapse between the expiration of the said three years and

the date of the next subsequent election, not being an election under the next succeeding section.

Disqualification for membership.

23. No person shall be qualified to be, or to continue to be, a member of the said Corporation who is or becomes at the time, or during the term of his appointment or election, a bankrupt or insolvent, or who is interested (otherwise than as a shareholder in a joint stock company) in any contract with the Corporation; and no person who is absent from Calcutta for six months consecutively, or who shall be sentenced to imprisonment, shall be qualified to continue to be such member.

Successors how appointed.

In case of the death, resignation or disqualification as aforesaid of any member of the said Corporation, his successor shall be forthwith appointed or elected in the manner hereinbefore provided, and such successor shall remain a member of the said Corporation for the residue only of the term for which the member so dead, resigned or disqualified was originally appointed or elected:

Provided that no act of the Commissioners or their officers, or of the Commissioners in meeting, shall be deemed to be invalid by reason only that the number of the Commissioners did not amount to seventy-two at the date of the performance of such act.

Penalty for taking bribe.

24. Whoever, being qualified to vote, or claiming to be qualified to vote, at any election under this Act, accepts or obtains, or agrees to accept or attempts to obtain, for himself or for any other person, any gratification whatever, as a motive or reward for giving or forbearing to give his vote in any such election, shall be liable to a fine not exceeding one hundred rupees for every such offence, and shall for ever be disqualified from voting at any such election, and from being elected a member of the said Corporation.

Penalty for giving bribe.

And whoever, by any gift or reward, or by any promise, agreement or security for any gift or reward, corrupts or procures, or offers to corrupt or procure, any person to give or forbear to give his vote in any such election, shall be liable to a fine not exceeding five hundred rupees for every such offence, and shall for ever be disqualified from voting at any such election, and from being elected a member of the said Corporation.

Application of municipal property and funds.

25. All property vested in the Corporation, and all funds received or raised by them in accordance with the provisions of this Act, shall be applicable to the purposes expressly authorized by this Act.

Objects to which municipal funds shall be applicable.

26. The purposes expressly authorized by this Act shall be held to include the objects connected with the public safety, health and convenience hereinafter specified; that is to say:—

Public Safety.

(1) Defraying the cost of the Police who may be employed for the security

of life and property within the town, in the manner and to the extent mentioned in chapter VIII.

(2) Provision for lighting the public streets, places and buildings, and for the securing or removal of dangerous places, buildings and trades.

Public Health.

(1) Defraying the cost of the maintenance of hospitals and of charges of vaccination, registration of births, deaths and marriages, and taking a census.

(2) Construction and maintenance of public markets and slaughter-houses, latrines, privies, depôts for the deposit or discharge of night-soil, urinals, drains, sewers, drainage-works, water-works, bathing-ghâts, drinking fountains, tanks, wells, squares and gardens, reclamation of unhealthy localities and the like.

(3) Cleansing and watering of streets, sewers, scavenging, removal of noxious vegetation and generally the abatement of all nuisances.

(4) Regulation of offensive trades, and burial and burning grounds, and the removal of and providing sites for the same.

Public Convenience.

(1) Construction, maintenance and alteration of streets, bridges, causeways, culverts and the like; regulation of buildings, naming streets and numbering houses, planting trees, and removal of obstructions and projections.

(2) Erection and maintenance of public halls, offices, Police-stations, lock-ups and other buildings under the control of the Corporation, or required for municipal or Police purposes.

(3) Survey of houses and preparation of plans.

And generally all objects connected with the public safety, health and convenience.

PART II.—*Of the Duties of the Corporation.*

Duties of Commissioners.

27. It shall be the duty of the Commissioners, and they are hereby required to—

(1) provide for the payment of the interest on the municipal debt in the manner prescribed by section 337;

(2) provide for the establishment of a reserve fund in the manner prescribed by the said section;

(3) provide such funds as may be necessary for the maintenance of the Police in the manner and to the extent mentioned in chapter VIII;

(4) complete and extend throughout the town the new underground drainage-works now under construction, and for that purpose to expend

annually a sum, being not less than one lákh and a half of rupees, or, with the sanction of the Local Government, any sum less than the above amount, to be raised as provided by section 334;

(5) maintain a water-supply in the manner and to the extent mentioned in chapter VII;

(6) make adequate and suitable provision for the cleaning and the conservancy of the town, and to provide such funds as may be necessary for that purpose.

Local Government may appoint commission.

28. If it shall appear to the Local Government that the Commissioners have failed to make adequate and suitable provision for the cleaning and the conservancy of the town to an extent likely to be prejudicial to the health of the inhabitants of the town, or of any part thereof, the Local Government may, by notification in the *Calcutta Gazette*, appoint a commission, consisting of three persons, of whom one shall be the Sanitary Commissioner for Bengal, or the senior medical officer of the Presidency, the second shall be appointed by the Commissioners in meeting within thirty days of the date of the said notification, or in their default, by the Local Government, and the third by the Local Government; and the Local Government shall order the members of the said commission to report within a certain time, to be fixed by the Local Government, whether they are of opinion that the cleaning and the conservancy of the town are defective to an extent likely to be prejudicial to the health of the inhabitants of the town, or of any part thereof, and, if they shall be of such opinion, to specify in their report what further provision should be made for the cleaning and the conservancy of the town up to the end of the year then current, or of the year next succeeding, as may be directed by the Local Government, and to submit an estimate of the cost of the said further provision.

In default of Commissioners, Local Government may carry out recommendation of commission.

29. On receipt of the said report, the Local Government shall forward the same for the consideration of the Commissioners, and if the Commissioners shall decline to carry out the provisions recommended therein, the Local Government may order that such provisions, or any of them, or any portion of them respectively, be carried out; and thereupon it shall be the duty of the Commissioners to comply with such order, and to provide the funds mentioned in the said estimate, or such portion thereof as the Local Government may fix; and the chairman shall forthwith carry out such order, and shall defray the cost of carrying out the same from the municipal fund, notwithstanding any power conferred on the Commissioners by section 53, or anything to the contrary contained in any other provision of this Act:

Provided that, if there is a difference of opinion among the members of the said commission, the opinion and report of the majority of the said members shall be held to be the opinion and report of the commission.

PART III.—*Of the Officers of the Corporation.*

Appointment and removal of chairman of Commissioners.

30. The Local Government shall from time to time appoint a proper person to be chairman of the Commissioners.

Such chairman may be removed from office by the Local Government if his removal be recommended by a resolution in favour of which not less than two-thirds of the Commissioners present at a special general meeting of the Commissioners shall have voted, but not otherwise.

Appointment of vice-chairman.

31. The Commissioners, at a special general meeting to be held for that purpose, may from time to time appoint, for such period as they may think fit, a proper person to be vice-chairman of the Commissioners.

Such appointment shall be subject to the approval of the Local Government.

Appointment of secretary, engineer, surveyor, health-officer, collector of taxes, and assessor.

32. The Commissioners may, at a special general meeting, from time to time, appoint proper persons, for such period as they may think fit, to the several offices of secretary, of engineer, of surveyor, of health-officer, of collector of taxes and of assessor for the town, or may appoint a proper person to two or more of such appointments, or to one.

Every person so appointed, and also the vice-chairman, shall reside within the town, and shall in all things be under the immediate orders of the chairman, and shall perform such duties as shall be assigned by him, and may be removed by the Commissioners by a resolution in favour of which not less than two-thirds of the Commissioners present at a special general meeting shall have voted, and another person may be appointed in his place.

All appointments and resolutions under this section shall be subject to the approval of the Local Government.

Chairman and vice-chairman to reside in Calcutta, and not to engage in other business.

33. The chairman and vice-chairman shall reside within the town, and each of them shall devote his whole time to the duties of his office; and no chairman or vice-chairman shall have or engage in any other profession, trade or business whatsoever:

Provided that—

(*a*) any civil or military officer in the service of the Government may hold the office of chairman or vice-chairman, so long as such officer shall fill no other appointment than those specified in this section:

(*b*) the chairman may also hold the office of Commissioner of Police, or of Commissioner as interpreted in section 1 of Bengal Act No. V of 1870 [a] (*to appoint Commissioners for making improvements in*

[a] See *supra*, p. 651.

the port of Calcutta); and may perform such other duties as the Local Government may from time to time assign to the Commissioner of Police:

(*c*) the chairman may also be a member of the Council of the Lieutenant-Governor of Bengal for making Laws and Regulations:

(*d*) the vice-chairman may, with the sanction of the Local Government, be appointed to and may hold any other office in the employ of the Commissioners to which he may be appointed at a special general meeting.

Allowances of chairman and vice-chairman.

34. The chairman and the vice-chairman respectively may receive such allowances out of the municipal fund as shall be, from time to time, fixed by the Commissioners at a special general meeting.

Such allowance shall not exceed—

(*a*) for the chairman three thousand rupees a month (exclusive of house-rent, which may or may not, in the discretion of the Commissioners, be allowed):

(*b*) for the vice-chairman twelve hundred rupees a month.

All resolutions passed by the Commissioners under this section shall be subject to the approval of the Local Government.

Salaries of secretary, engineer, &c.

35. Every secretary, engineer, surveyor, health-officer, collector of taxes and assessor, appointed as hereinbefore provided, may receive such allowance out of the municipal fund as shall be from time to time fixed by the Commissioners at a special general meeting.

All resolutions passed by the Commissioners under this section shall be subject to the approval of the Local Government.

Appointment and remuneration of overseers, clerks and subordinate officers.

36. The chairman may from time to time appoint all such overseers, clerks, subordinate officers and servants as he shall think necessary and proper to assist in carrying out this Act, and may from time to time remove any of such persons and appoint others in their place;

and may, with the sanction of the Commissioners in meeting, other than an ordinary meeting, pay out of the municipal fund such allowances to the said persons respectively, or in case of absence on leave, such portion thereof as he shall think reasonable:

Provided that the allowances of the offices filled by the said persons shall have been sanctioned in meeting, other than an ordinary meeting.

But no person shall be appointed to, or removed from, any office, the monthly salary of which exceeds two hundred rupees, without the sanction of the Commissioners in meeting, other than an ordinary meeting.

Commissioners to grant leave of ab-

37. The Commissioners may in meeting, other than an ordinary meeting, with the sanction of the Local Government, grant such leave of absence to the

sence, &c., with sanction of Government.

chairman or any officer appointed under sections 31 and 32, and may, if such officer be other than the chairman, make such arrangements for carrying on the duties of his office during his absence on leave as shall to them seem proper.

In any case in which leave of absence shall be granted to the chairman, the Local Government shall appoint one of the Commissioners to act as chairman in his place, or shall make such other arrangements for carrying on the duties of the office as to it shall seem proper.

Any person appointed under this section to act for the chairman or any other officer shall, while so acting, have all the powers, and be liable to all the restrictions, limitations and provisions, which the chairman or other officer for whom he may be appointed to act would, under this Act, have or be liable to.

Allowances during absence on leave.

38. In any case in which leave of absence shall be granted under the last preceding section, the Commissioners may in meeting, other than an ordinary meeting, by a resolution in favour of which not less than two-thirds of the Commissioners present at the meeting shall have voted, with the sanction of the Local Government, out of the municipal fund, pay to the chairman or other officer aforesaid such allowance during absence on leave as shall to them seem proper.

Commissioners may make rules for pensions and gratuities to officers and servants.

39. The Commissioners may in meeting, other than an ordinary meeting, by a resolution in favour of which not less than two-thirds of the Commissioners present at such meeting shall have voted, from time to time make rules for pensions and gratuities to be granted, and to be paid out of the municipal fund, to their officers and servants, and may repeal, alter or add to such rules.

No rule, and no repeal or alteration of, or addition to, any rule, shall have effect until the same has been confirmed by the Local Government and published in the *Calcutta Gazette*.

The Commissioners may in meeting, other than an ordinary meeting, from time to time, in accordance with such rules for the time being in force, grant such pensions or gratuities to any of their officers or servants as to the Commissioners may seem fit.

Officers, &c., not to be interested in contracts made with Commissioners.

40. No chairman or vice-chairman, or other officer or servant of the Commissioners, shall be interested directly or indirectly in any contract made with the Commissioners, and if any such person be so interested, he shall become incapable of continuing in office or in employment as such chairman, vice-chairman or other officer or servant, and shall forfeit and pay the sum of five hundred rupees, which may be recovered by suit brought by or on behalf of the Commissioners:

Provided that no person shall, by reason of being a shareholder in, or a

member of any incorporated or registered Company, be deemed interested in any contract entered into between such Company and the Commissioners.

Penalty on officers, &c., taking unauthorized fees.

41. If any person employed under this Act (not being a public servant within the meaning of section 21 of the Indian Penal Code) shall accept or obtain, or agree to accept or attempt to obtain, from any person, for himself or for any other person, any gratification whatever, other than legal remuneration, as a reward for doing, or forbearing to do, any official act;

or for shewing or forbearing to shew, in the exercise of his official functions, favour or disfavour to any person, or for rendering or attempting to render any service or disservice to any person, with the Commissioners or with any public servant, or with the Government as such,

he shall be punished with imprisonment, either simple or rigorous as provided in section 53 of the Indian Penal Code, for a term which may extend to three years, or with a fine not exceeding five thousand rupees, or with both.

PART IV.—*Of the Mode of transacting Business and entering into Contracts.*

Commissioners to provide office and keep book for entry of complaints.

42. The Commissioners shall provide and keep an office within the town, and shall at such office, and during all days of business, keep open a book in which shall be entered all reasonable complaints made, orally or by letter, by any inhabitant, or the owner or occupier of any house or land within the town, of any matter cognizable by the Commissioners;

and the proper officer of the Commissioners shall forthwith inquire into the truth of all such complaints, and report thereon to the Commissioners; and such report shall be entered in the said book, and such book shall be open, at all reasonable times, to any inhabitant, or owner or occupier of any house or land within the town.

Time for holding quarterly and ordinary meetings.

43. There shall be four quarterly meetings in every year, and one ordinary meeting in every month, at which the Commissioners shall meet for the transaction of general business.

The quarterly meeting shall be held in the months of January, April, July and October, or in any month to which the quarterly meetings first called for the months of January, April, July and October may be adjourned; and the ordinary meetings at such dates as the Commissioners in meeting may from time to time direct:

Provided that no ordinary meeting need be called if there be no business to be laid before it by the chairman or by any of the Commissioners.

Business at ordinary and quarterly meetings.

44. The Commissioners shall, from time to time, as occasion may require, at a special meeting to be convened for that purpose, or at some adjournment thereof, fix and determine the kind of business that may be transacted at the

said ordinary and quarterly meetings; and no business, save such kind of business, shall be transacted at such meetings:

But the chairman may postpone the discussion of any question that may be raised at any such meeting, and refer the determination thereof to a special or special general meeting to be convened within fourteen days thereafter.

Special and special general meetings may be called.

45. The chairman or, in his absence, the vice-chairman may, whenever he thinks fit, and shall, upon a requisition made in writing by any ten Commissioners, call a special or special general meeting of the Commissioners.

Previous to any such meeting, at least five days' clear notice, specifying the time and place of such intended meeting, and the purpose for which it is to be held, shall be given by advertisement in at least two of the daily newspapers published within the town.

Business to be transacted at special and special general meetings.

46. No business shall be brought before, or transacted at, any special or special general meeting other than the business specified in the notice given under the last preceding section:

Provided that any Commissioner may submit to a special or special general meeting any resolution beyond the matters mentioned in the notice given of such meeting, if he shall have given not less than two clear days' previous notice of his intention so to do, by leaving a copy of the resolution at the office of the Commissioners.

Questions to be decided by majority of votes.

47. All acts authorized or required to be done by the Commissioners, and all questions which may come before them for decision, shall, save as is herein otherwise provided, be done and decided by a majority of the Commissioners present at the meeting before which the matter may be brought.

Who to preside at meetings.

48. The chairman and vice-chairman shall attend all meetings of the Commissioners held under this Act, unless prevented by sickness or other reasonable cause; and the chairman or, in his absence, the vice-chairman shall preside at every such meeting, and shall have a second or casting vote in all cases of equality of votes.

In the absence of both the chairman and vice-chairman, the Commissioners present at any meeting shall choose some one of their number to preside, who shall, in case of equality of votes, have a second or casting vote.

The president of any meeting at which a quorum of the Commissioners shall be present, may, with the consent of the meeting, adjourn the meeting from time to time, and from place to place; but no business shall be transacted at any adjourned meeting other than the business left unfinished at the meeting from which such adjournment took place.

Quorum.

49. No business shall be transacted at any meeting unless a quorum of Commissioners be present at such meeting, that is to say—

(*a*) at an ordinary meeting, at least six:

(*b*) at a special meeting, at least nine:

(*c*) at a special general or quarterly meeting, at least eighteen:

Provided that, if at any meeting there shall not be a sufficient number of Commissioners present to form a quorum as above-mentioned, the president (whether he be the chairman or not) shall adjourn the meeting to such convenient time and place as he shall think fit; and the business which should have been brought before the original meeting, had there been a quorum present, shall be brought before and disposed of by the adjourned meeting in the usual manner, whether there be a quorum present at such adjourned meeting or not:

Provided also that no business shall be brought before an adjourned special general or quarterly meeting, unless there are at least ten Commissioners present at such adjourned meeting.

Minutes of proceedings to be kept, and to be open for inspection.

50. Minutes of the proceedings of all meetings shall be drawn up and fairly entered in a book to be kept for that purpose, and shall be signed by the president after each meeting; and minutes of each meeting shall be laid on the table at the next subsequent meeting, and the said minutes shall, at all reasonable times, be open at the office of the Commissioners to the inspection of any Commissioner without charge, and of any other person on payment of a fee of eight annas.

Declaration by president that resolution has been carried.

51. At any special general or quarterly meeting, unless a poll be demanded by at least five Commissioners, and at any special or ordinary meeting, unless a poll be demanded by at least three Commissioners, a declaration by the president that a resolution has been carried, and an entry to that effect in the book of proceedings of the Commissioners shall, for the purposes of this Act, be sufficient evidence of the fact, without proof of the number or proportion of the votes recorded in favour of or against such resolution.

Poll how taken.

52. If a poll be demanded as in the last preceding section mentioned, the votes of all the Commissioners present who desire to vote shall be taken under the direction of the president, and the result of such poll shall be deemed to be the resolution of the Commissioners at such meeting.

Chairman or vice-chairman to attend daily for business, and to exercise powers of Commissioners.

53. The chairman or vice-chairman shall, except upon such holidays as shall be allowed by the Government, and unless prevented by sickness or other reasonable cause, attend daily at the office of the Commissioners for the transaction of business connected with or arising under this Act, and, when so attending, shall have all the powers vested by this Act in the Commissioners; and they may respectively exercise the like powers at all times in carrying out the orders of the Commissioners, or in executing any work sanctioned by them, and generally in the management of the business aforesaid:

Provided that no chairman or vice-chairman shall act in opposition to, or contravention of, any order of the Commissioners, or exercise any power which by this Act is directed to be exercised only by the Commissioners in meeting.

Mode of contracting by, and on behalf of, Commissioners.

54. The Commissioners may enter into and perform all such contracts as may be necessary for carrying this Act into effect.

Every contract made on behalf of the Commissioners in respect of any sum exceeding one thousand rupees, or in respect of any property exceeding one thousand rupees in value, shall be in writing, and signed by the chairman (or, in his absence, by the vice-chairman) and two other Commissioners, and shall be sealed with the seal of the Commissioners, and no such contract shall be made without inviting tenders thereon and without the approval of a committee of the Commissioners.

Unless so executed, it shall not be binding on the Commissioners.

The Commissioners may compound with any contractor or other person in respect of any penalty or damages incurred by reason of the non-performance of any contract entered into as aforesaid, whether such penalty be mentioned in any such contract or otherwise, for such sums of money or other recompense as to the Commissioners may seem proper.

Commissioners may appoint committees.

55. The Commissioners in meeting may from time to time appoint, from among the Commissioners, such and so many committees, either of a general or of a special nature, and consisting of such number of persons as they may think fit, for the purpose of inquiring into, and reporting upon, any matter connected with the conservancy or improvement of the town, or of advising and aiding the chairman in the discharge of any portion of his executive duties, which in the discretion of the Commissioners would be better regulated or managed with the advice and aid of any such committee:

Provided that the chairman or vice-chairman shall be a member of every such committee, and that the proceedings of every such committee shall be submitted to the Commissioners at a meeting:

Provided also that in cases where the chairman and the majority of the committee differ on any matter, no action shall be taken in respect of such matter until it be disposed of by the Commissioners in meeting.

Part V.

Of the Estimates of Income, Expenditure and Audit.

Budget or estimate of income and expenditure

56. At the quarterly meeting to be held in the month of October in each year, the chairman shall lay before the Commissioners a budget or estimate, prepared by him, of the income and expenditure of the Commissioners (not

mentioned in chapter VIII) for the year commencing on the first day of January then next succeeding, in such detail and form as the Commissioners shall from time to time, by order passed at a quarterly or special general meeting, direct. to be submitted annually to Commissioners.

Such budget shall be completed and printed, and a copy thereof, as far as may be practicable, sent by post or otherwise to each of the Commissioners resident within twenty miles of Government House, at least seven days prior to the meeting before which the budget is to be laid.

57. The budget shall shew what expenditure it is proposed to incur during the period to which it relates, and the manner in which it is proposed to meet such expenditure: Budget of expenditure.

Provided that nothing contained in this section shall preclude the Commissioners in meeting from sanctioning expenditure not provided for in the budget.

58. It shall be in the discretion of the Commissioners, at the meeting referred to in section 56, to pass, or to reject, or to modify, the estimates of all or any sums entered in the budget. Revision and passing of estimates.

No new work or series of works, the entire estimated cost of which shall exceed fifty thousand rupees, shall be commenced without the sanction of the Local Government.

59. The accounts of the receipts and expenditure of the Commissioners shall be audited and examined at least once in every year at such time and by such auditors as shall, from time to time, be appointed by the Local Government. Accounts to be audited and examined.

60. For the purposes of any audit and examination of accounts under this Act, the auditors may, by summons in writing, require the production before them of all books, deeds, contracts, accounts, vouchers and all other documents and papers which they may deem necessary, and may require any person holding or accountable for any such books, deeds, contracts, accounts, vouchers, documents or papers, to appear before them at any such audit and examination or adjournment thereof, and to make and sign a declaration with respect to the same. Powers of auditors.

61. If any such person neglect or refuse to make or sign such declaration, or to produce any such books, deeds, contracts, accounts, vouchers, documents or papers, or to make or sign such declaration, he shall be liable, for every neglect or refusal, to a fine not exceeding one hundred rupees, and to a further fine not exceeding seventy rupees for each day during which the offence is continued after he has been convicted of such offence. Penalty.

62. All auditors acting under this Act shall, in respect of each audit, be paid out of the municipal fund such reasonable remuneration as the Commis- Remuneration of auditors.

sioners in meeting, other than an ordinary meeting, shall from time to time determine.

Ten days' notice of audit to be given.

63. Before each audit and examination of accounts, the Commissioners shall give ten days' notice of the time and place at which the same will be made, by advertisement in at least two of the daily newspapers published in Calcutta; and a copy of the accounts to be audited and examined shall be deposited in the office of the Commissioners and be open during office hours thereat to the inspection of all persons interested for seven days before the audit and examination, and all such persons shall be at liberty to take copies of, or extracts from, the same, without the payment of any fee; and within fourteen days after the audit and examination shall have been completed, the auditors shall report upon the accounts audited and examined, and shall deliver such report to the Commissioners at a meeting, who shall cause the same to be deposited in the office of the Commissioners, and to be published in the *Calcutta Gazette*.

PART VI.—*Of the fixing of Rates.*

Rates to be fixed at quarterly meeting in October.

64. At the quarterly meeting to be held in the month of October in each year as aforesaid, the Commissioners shall fix the rates at which the rates and taxes hereinafter mentioned shall be imposed for the year commencing on the first day of January then next ensuing, and the rate so fixed shall not be altered before the quarterly meeting held in the next succeeding month of October, except by a resolution passed by the Commissioners at a special general meeting.

CHAPTER III.

OF TAXES.

PART I.—*Of the Tax on Carriages and Animals.*

Tax on carriages and animals.

65. A tax at a rate not exceeding the rates specified in the second schedule shall be imposed upon all carriages and animals kept within the town, and shall be payable in advance.

But it shall not be imposed on

(*a*) animals belonging to officers doing regimental duty at the Presidency, at the rate of one animal for each officer;

(*b*) animals exempt from any municipal tax under section 25 of the Indian Volunteers' Act, 1869;

(*c*) carriages or animals belonging to the Government or to the Commissioners;

(*d*) carriages, the wheels of which do not exceed twenty-four inches in diameter;

(*e*) animals under eleven hands in height;

(*f*) carriages kept for sale by *bonâ fide* dealers in such carriages and not used for any other purpose;

(*g*) animals used by, or in, any cavalry regiment, or by the Police-force.

Owners of carriages, &c., to take out license.

66. The person in possession of every carriage or animal kept within the town shall, on or before the first day of January and the first day of July in each year, forward to the office of the Commissioners a statement in writing signed by him, containing a description of the carriages and animals in his possession liable to the tax.

Such person shall at the same time pay to the Commissioners such sum as shall be payable by him for the half-year commencing on the first day of January or July (as the case may be) for the carriages and animals specified in such statement, according to the rates given in the second schedule.

Any person becoming possessed between the first day of January and the first day of July, or between the first day of July and the first day of January, of any carriage or animal so kept, shall, within a week of becoming so possessed, send to the office of the Commissioners a similar statement, together with the amount payable for the whole of the then current half-year, according to the rates specified in the second schedule.

The Commissioners may, if they are satisfied that any such carriage or animal has been kept for only a portion of the then current half-year,

remit the whole, or such portion thereof as they may think fit, of the amount so payable.

For the purposes of this section, a livery stable-keeper shall be deemed to be possessed of every animal in his stables.

On payment of tax Commissioner to grant license.

67. Whenever any person shall pay to the Commissioners the amount of the tax which under the two last preceding sections shall be payable by him in respect of all carriages and animals kept within the town, the Commissioners shall grant to such person a license to keep within the town such carriages and animals during the current half-year ending upon the first day of January or the first day of July which shall occur next after the grant of such license, and no longer.

Penalty.

68. Whoever keeps or is in possession of any carriage or animal without the license required by the two last preceding sections shall be liable to a fine not exceeding three times the amount payable by him in respect of such license, exclusive of the amount so payable.

Commissioners may compound for carriages with livery stable-keepers and others.

69. The Commissioners, at their discretion, may compound, for any period not exceeding one year, with livery stable-keepers and other persons keeping carriages for hire, or animals for sale or hire, for a certain sum to be paid for the carriages or animals so kept by such persons in lieu of the taxes specified in the second schedule.

Penalty.

70. Whoever, having compounded for the payment of a certain sum under the last preceding section, refuses to pay such sum shall be liable to a fine not exceeding three times the amount payable by him in respect of such composition, exclusive of the amount so payable.

Power to compel production of books of livery stable-keepers.

71. The Commissioners may, by a notice in writing under their common seal, require any person who shall carry on the trade or business of a livery stable-keeper to produce, for the inspection of the Commissioners, or of any officer authorized by them in that behalf, all books and accounts relating to the business of a livery stable-keeper carried on by such person.

Power to inspect stable, &c., and to summon persons liable to tax.

72. The Commissioners, or any person authorized by them in that behalf, may, at any time between sunrise and sunset, enter and inspect any stable or coach-house, or any place wherein they may have reason to believe that there is any carriage or animal liable to taxation; and the Commissioners may summon any person whom they have reason to believe to be liable to the payment of any tax under sections 65 and 66, or any servant of such person, and may examine such person or servant as to the number and description of the horses and carriages in respect of which such person is liable to be taxed.

Penalty.

73. Whoever neglects or refuses to comply with a notice served under section 71, and whoever hinders or obstructs the Commissioners or any person appointed by them from, or in entering or inspecting, any stable, coach-house or place in the manner provided in the last preceding section, shall be liable to a fine not exceeding one hundred rupees.

List of persons licensed to be entered in book.

74. The Commissioners shall from time to time cause to be prepared and entered in distinct columns, in a book to be kept at the office of the Commissioners and to be open to the inspection of any person who shall apply for leave to inspect the same, a list of the persons to whom during the then current period of six months a license has been granted under section 67, and of the carriages and animals in respect of which the same has been granted.

PART II.—*Of the Tax on Professions, Trades and Callings.*

Persons exercising certain professions,

75. Every person who shall within the town exercise any of the professions, trades or callings specified in the third schedule shall yearly take out a

license, and shall pay for the same such sum as is in the third schedule mentioned. trades and callings to take out license.

The Commissioners may in their discretion remit any portion of the sum so payable if they are satisfied that any such person has exercised any such profession, trade or calling for a portion of the year only.

76. The license mentioned in the last preceding section shall be granted by the Commissioners, or by some person authorized by them in that behalf, and shall specify License to be granted by Commissioners and to specify particulars.

the date of the grant thereof,

the name of the person to whom the license is granted,

the profession, trade or calling for which the license is granted,

and the sum paid for such license.

Such license shall have effect and continue in force from the commencement of the year in which it is granted until the thirty-first day of December next after the day of the granting thereof, and no longer.

77. Whoever exercises any trade, profession or calling without the license required by section 75, shall be liable to a fine not exceeding three times the amount payable by him in respect of such license exclusive of the amount so payable. Penalty.

78. The chairman, or some other officer authorized by him in that behalf, shall determine under which of the classes mentioned in the third schedule every person to whom a license may be granted shall be assessed, and the chairman may in his discretion remit the payment of license-tax either in whole or in part to any person classified under classes 5 or 6 of the third schedule. Chairman or vice-chairman to classify persons required to be licensed

79. Any person may, within fourteen days of the date of his being informed of the class under which he has been assessed as determined in the last preceding section, appeal against such assessment by delivering at the office of the Commissioners an application in writing stating the grounds of appeal; and such appeal shall be heard and determined by not less than three Commissioners other than executive officers of the Commissioners. Appeals against assessment.

No such appeal shall be heard unless the amount of the license assessed as aforesaid has been deposited with the Commissioners.

If no appeal be made within the time limited as aforesaid, the decision of the chairman or vice-chairman shall be final.

80. The Commissioners may, by a notice in writing under their common seal, require the occupier of any house to forward to them a list in writing signed by him of the names of all persons residing in such house, and of their respective professions, trades and occupations. Commissioners may require list of persons in any house.

81. Whoever, being the occupier of any house, fails to forward such list Penalty.

when required to do so under the last preceding section, shall be liable to a fine not exceeding one hundred rupees.

Chairman to prepare list of persons required to be licensed.

82. As soon as may be after the first day of January in every year, the chairman shall prepare a list of the persons licensed under sections 75 and 76, which shall state

the profession, trade or calling of every such person therein named,

the class under which he is assessed, and

the sum paid by him in respect of his license;

and such list shall be kept in the office of the Commissioners, and be open to public inspection at all reasonable times.

PART III.—*Of the Registration of Carts.*

Registry and numbering of carts.

83. Every cart kept or used within the town or the suburbs, or Howrah, shall be registered in the office of the Commissioners with the name and residence of the owner, and shall have affixed thereto the number of such registration in such manner as the Commissioners shall direct.

Penalties.

84. Whoever keeps or is in possession of a cart not duly registered as required by the last preceding section shall be liable to a fine not exceeding three times the amount payable by him in respect of such registration, exclusive of the amount so payable; and whoever, being the owner or driver of any cart, shall fail to affix the registration-number required by the last preceding section shall be liable to a fine not exceeding five rupees.

Fee for registration.

85. The registration of carts under the last preceding section shall be made, and the numbers assigned, half-yearly on or after the first day of January and the first day of July in each year, upon such days as the Commissioners shall appoint, and a fee of four rupees shall be paid for each registration.

The Commissioner may in their discretion remit any portion of the fee so payable if they are satisfied that the cart hereinbefore required to be registered has been kept or used as in the last preceding section mentioned for a portion of the half-year only.

When any registered cart is transferred within any half-year, it shall be registered anew in the name of the person to whom it has been transferred; and a fee of four annas shall be paid for every such last-mentioned registration.

One-sixth of the total nett proceeds of the fees half-yearly received by the Commissioners for the registration of carts, after deducting charges incurred in and about such registration, shall be paid half-yearly by the Com-

missioners to the municipality of the suburbs, and one-twelfth of such proceeds to the municipality of Howrah:

Provided that it shall be in the discretion of the Local Government, from time to time, to alter the proportion of the said proceeds required by this section to be paid by the Commissioners to the municipalities of the suburbs and of Howrah respectively, and to prescribe such other proportions as to it shall seem proper.

Last three sections not to apply to certain carts.

86. The three last preceding sections shall not apply to carts

(*a*) which are the property of the Government,

(*b*) which are the property of the Commissioners, the Municipal Commissioners of the suburbs or of Howrah,

(*c*) or which are kept at any place more than eight miles distant from Government House and are only temporarily and casually used within the town, the suburbs or Howrah.

On failure to register, Commissioners may seize and sell cart and animals.

87. If any person owns or keeps any cart hereinbefore required to be registered without having caused the same to be registered, the Commissioners, or any officer authorized by them in that behalf, may seize such cart (provided the same be not employed at the time of the seizure in the conveyance of passengers or goods), together with the animals or cattle drawing the same, and may detain them;

and all Police-officers shall, on the application of the Commissioners or their officers as aforesaid, seize and detain any such cart, animals or cattle.

If the cart, animals or cattle so seized be not claimed within ten days, they may be sold by auction by order of a Justice of the Peace, or Magistrate, and the proceeds of such sale may be applied to the expenses incurred on account of the seizure, detention and sale; and the surplus (if any), if not claimed within a further period of twenty days, shall be paid to the municipal fund of Calcutta.

CHAPTER IV.

OF RATES.

PART I.—*Of Imposing the Rates.*

Rates.

88. The Commissioners shall, as provided in section 64, impose upon all houses and land within the town the following annual rates, which shall be calculated on the annual value of the said houses and land—

(*a*) a house-rate not exceeding ten per centum;

(*b*) a water-rate not exceeding six per centum when the houses and land are situated in streets supplied with filtered water in the

manner provided by section 129, and not exceeding five per centum when the houses and lands are situated in streets not so supplied;

(*c*) a Police-rate not exceeding three per centum;

(*d*) a lighting-rate not exceeding two per centum.

The Commissioners may impose upon all houses and land situated within the boundaries declared under section 168 an annual drainage-rate not exceeding two and a half per centum of their annual value.

Rates by whom and when payable.

89. The house-rate and drainage-rate shall be payable by the owners of the houses and land.

The water-rate shall (save as is provided in sections 99 and 100) be payable by the occupiers of the houses and land.

The Police and lighting-rates shall (save as is provided in section 100) be payable by the occupiers of the houses and land.

All the rates hereinbefore mentioned shall be payable by quarterly instalments.

The house-rate shall be payable on the first of April, the first of July, the first of October and the first of January, for the quarters immediately preceding those dates.

The water-rate shall (save as is provided in section 99) be payable in advance on the dates above-mentioned for the current quarter.

The Police and lighting-rates shall be payable in advance on the dates above-mentioned for the current quarter.

PART II.—*Of the Owner's Rates.*

If assessment made at higher annual value than amount paid by occupier, owner may recover difference from him.

90. If the annual value of any house or land as assessed under chapter V shall in any case exceed the amount of rent payable by the occupier to the owner, the owner may in such case recover from the occupier the difference between the sum assessed upon him and the sum at which he would have been assessed had he been rated only upon the amount of rent actually payable to him, and such difference shall be added to the rent payable by the occupier, and shall be recoverable by the owner from him.

Remission of house-rate when house vacant.

91. Where any house or land whereon the rate is assessed under chapter V has been vacant for sixty consecutive days during any year, the person assessed to the said rate shall be entitled to a remission of so much thereof, not exceeding one-half of the rate for that year, as shall be proportionate to the number of days such house or land has been vacant, if notice shall have been given in writing to the Commissioners of such house or land being vacant; and the

date of vacancy shall be calculated from the date of the delivery of such notice at the office of the Commissioners.

92. No remission shall be made under the last preceding section, unless the same shall be applied for within six months from the date of cessation of occupation of the house or land on account of which the remission is applied for. No remission unless application be made within six months from vacancy.

PART III.—*Of the Occupier's Rates.*

93. Whenever any quarterly instalment of water-rate shall have been paid in respect of any house or land, and such house or land shall, during the quarter for which such instalment shall have been paid, cease to be occupied, the person who shall have paid such water-rate shall be entitled to be repaid by the Commissioners three-fourths of such sum as shall bear to the amount paid by him the same proportion which the residue of the quarter bears to an entire quarter, if notice shall have been given in writing to the Commissioners of such house or land being vacant; and the date of vacancy shall be calculated from the date of the delivery of such notice at the office of the Commissioners. Refund of water-rate when house ceases to be occupied.

94. Whenever any quarterly instalment of the Police and lighting-rates shall have been paid in respect of any house or land, and such house or land shall, during the quarter for which such instalment shall have been paid, cease to be occupied, the person who shall have paid such instalment shall be entitled to be repaid by the Commissioners such sum as shall bear to the amount paid by him the same proportion which the residue of the quarter bears to an entire quarter, if notice shall have been given in writing to the Commissioners of such house or land being vacant; and the date of vacancy shall be calculated from the date of delivery of such notice at the office of the Commissioners. Refund of Police and lighting-rates when house ceases to be occupied.

95. No refund of rates shall be made under the two last preceding sections, unless the same is applied for within six months from the date of cessation of occupation of the house or land on account of which the refund is applied for. No refund unless applied for within six months from vacancy.

96. Whenever any house or land which shall have been unoccupied shall be occupied during any quarter, there shall be forthwith payable in respect of such house or land such amount of the water, Police and lighting-rates as shall bear to the entire quarterly instalments of the said rates for such house or land the same proportion as the residue of such quarter after such house or land shall be occupied bears to an entire quarter. Rate payable on house or land becoming occupied.

97. Whenever any person holding any house or land at a rent from the person liable to pay the house-rate has or may sublet the same to different Person subletting to different

persons to be deemed occupier.

persons holding in severalty, the person so holding shall, for the purposes of this Act, be deemed to be the occupier of such house or land.

Occupier paying water-rate to deduct one-fourth from rent due to owner.

98. Whenever the person from or by whom the water-rate shall have been recovered or paid shall not be the owner of the house or land in respect of which the water-rate shall have been assessed, such person may recover from the owner of such house or land one-fourth of the water-rate so paid by deducting the same from the rent payable by him to such owner.

When house or land unoccupied, owner to pay one-fourth of water-rate.

99. Whenever any house or land has been unoccupied during an entire quarter, the owner of the said house or land shall pay to the Commissioners one-fourth of the sum which would have been payable as water-rate by the occupier if such house or land had been occupied.

The sum payable by the owner under this section shall be payable on the first of April, the first of July, the first of October and the first of January, for the quarters immediately preceding those dates.

Power to assess owners in certain cases.

100. If any house is occupied by more than one person holding in severalty, or is of less assessed annual value than two hundred rupees, the Commissioners may impose the water, Police and lighting-rates upon the owner of such house, or upon the owner of the land on which such house is situated.

Owner to recover from occupier water-rate paid by owner.

101. If the water-rate is paid by the owner of any house or land under the last preceding section, such owner may, if there be but one occupier of the house, recover from such occupier three-fourths of the rate so paid by such owner;

and if there be more than one occupier, he may recover from each occupier three-fourths of such sum as shall bear to the entire amount of rate so paid by him the same proportion as the value of the portion of the house in the occupation of such person bears to the entire value of such house.

Owner to recover from occupier Police and lighting-rates paid by owner.

102. If the Police and lighting-rates are paid by the owner of any house or land under section 100, such owner may, if there be but one occupier of the house, recover from such occupier the entire amount of the rates so paid by such owner;

and if there be more than one occupier, he may recover from each occupier such sum as shall bear to the entire amount of rates so paid by him the same proportion as the value of the portion of the house in the occupation of such person bears to the entire value of such house.

Owner's power for recovering rates.

103. Every owner who, under the provisions of the two last preceding sections, may be entitled to recover any sum from the occupier of any house or of any portion thereof, shall have for the recovery of such sum all such and the same remedies, powers, rights and authorities as if such sum were rent payable to him by the occupier in respect of such portion of the house as may be in his occupation.

CHAPTER V.

Of the Assessment of Houses and Land.

Annual value of house or land how ascertained.

104. The estimated gross annual rent at which any house or land liable to rate under this Act might reasonably be expected to let from year to year shall, for the purposes of any rate to be imposed under this Act, be held and be deemed to be the annual value of such house or land.

The value of land so estimated shall not include the value of any machinery thereupon:

Provided that all the unoccupied land, roads and slopes of the Port Commissioners shall be rated at the rent for which the said land, roads or slopes might be reasonably expected to let, in the same manner as if the said land, roads and slopes were used for other than public purposes, and belonged to persons other than a public body, save and except the road extending from the northern boundary of the premises occupied by the East India Railway Company at Armenian Ghát to the Chitpur canal, and the road extending from the Chitpur road to the river Huglí at Kumártala Ghát, for a width not exceeding seventy feet and sixty feet respectively, which shall be exempted from assessment of any rate under this Act.

Annual value to be assessed by Commissioners; assessment to remain in force for six years.

105. All assessments made by the Commissioners prior to the commencement of this Act shall remain in force during the period for which they were so made, and on the expiration of such assessments, the annual value at which any house or land is to be assessed shall be fixed by the Commissioners, and such house or land shall be assessed upon the value so fixed for six years from the date on which it is so fixed.

When substantial improvement made, Commissioners may re-assess.

106. If, during the currency of any period mentioned in the last preceding section, any substantial alteration and improvement is made to any such house or land, the Commissioners may cause such house or land to be again assessed, even though such period has not expired, and such last-mentioned assessment shall be in force, and the rate shall be imposed according to it, until the expiration of the said period of assessment.

When substantial injury done, Commissioners may re-assess.

107. If, during the currency of any period mentioned in section 105, any such house or land shall receive substantial injury through fire, cyclone, the act of God or civil commotion, or suffers material depreciation from any cause proved to the satisfaction of the Commissioners to have been beyond the control of the owner or occupier thereof, the Commissioners shall, as soon as practicable, on application being made to them in writing by the owner or occupier of such house or land, cause such house or land to be again assessed, even though the current period of assessment has not expired, and

such last-mentioned assessment shall be in force, and the rate shall be imposed according to it, until the expiration of the said period of assessment:

Provided that, if any substantial alteration and improvement shall be made prior to the expiration of the said period of assessment, to the house or land which shall have been again assessed as aforesaid, the Commissioners may cause such house or land to be again assessed as under section 106.

Annual value assessed to be entered in book.

108. The annual value assessed by the Commissioners as hereinbefore provided shall be entered in a book to be kept at the office of the Commissioners, wherein shall also be written in distinct columns

(*a*) the name of the owner;

(*b*) the name of the occupier, if the occupier is the person liable to pay the rate;

(*c*) a designation of the property sufficient to identify the same, together with the name and number of the street (if any) in which it is situated;

(*d*) the amount of the rate assessed thereon; and

(*e*) the amount of the rate assessed on the house and on the land respectively, whenever any rate is payable by the owner of the land, and the said owner is not the owner of the house situated on the said land.

The book required to be kept under this section is hereinafter called the "assessment-book."

When the name of the owner or occupier is not known, it shall be sufficient to designate him in the assessment-book as the "owner" or "occupier."

New valuation or measurement to be made.

109. The Commissioners shall from time to time make a valuation or measurement of all houses and land within the town, and for such purpose may divide the town into such and so many districts as they may think fit, and proceed to make a separate valuation or measurement district by district, and shall enter the same in the assessment-book.

Returns may be required for purpose of valuation.

110. The Commissioners may require the owner or occupier of any house or land to furnish them with returns of the measurements and of the rent or annual value thereof; and the Commissioners, or any person authorized by them in that behalf, may at any time between the hour of seven in the forenoon and sunset enter on, and inspect, survey and measure, such house or land after giving a notice in writing of not less than twenty-four hours.

Penalty.

111. Whoever refuses or fails to furnish any such return for the space of one week from the day on which he shall have been required so to do, or knowingly makes a false or incorrect return, and whoever hinders, obstructs or prevents any Commissioner, or any person appointed by the Commissioners as aforesaid, from entering or inspecting or measuring any such house or land, shall be liable to a fine not exceeding two hundred rupees for every such offence

Public notice of valuation and measurement to be given.

112. When the valuation or measurement of any of the districts of the town into which it may have been divided by the Commissioners shall have been completed, the Commissioners shall give public notice thereof, and of the place where the assessment-book or a copy thereof, may be inspected, by advertisement in at least two of the English daily newspapers, and in two vernacular newspapers, published within the town, and also by placards posted up in conspicuous places throughout such district of the town;

and the person in whose custody the assessment-book may be shall permit every person, being the owner or occupier of any house or land included in the assessment or measurement, or the agent of such owner or occupier, to inspect the book and to make extracts therefrom without payment of any fee, and every person, not being such owner or occupier, to inspect and make extracts, in like manner, on payment of a fee of one rupee.

Notice when valuation made for first time or increased.

113. The Commissioners shall, in all cases in which any house or land is for the first time assessed, or in which the valuation or measurement of any house or land previously assessed is increased, give special notice thereof to the owners or occupiers of the same, and when the valuation is increased as aforesaid, the said notice shall state the grounds of such increase.

Appeals.

114. Appeals against any assessment made by the Commissioners under this chapter shall lie—

(*a*) to not less than three Commissioners, other than executive officers of the Commissioners; or

(*b*) to the Court of Small Causes.

In any case of an appeal to the Court of Small Causes under this section, the said Court may follow the procedure laid down in sections 354 and 355.

Notice to be given by person appealing.

115. Any person desiring to appeal against any assessment made under this chapter shall, within fifteen days of the publication of the notice referred to in section 112, deliver at the office of the Commissioners a notice in writing stating the grounds of appeal, and also informing the Commissioners whether he intends to appeal under clause (*a*) or (*b*) of the last preceding section.

No appeal shall lie as hereinbefore provided unless the amount of the house-rate for one quarter, under the assessment about to expire, has been deposited with the Commissioners;

and unless the appeal is preferred by the person who at the time the appeal is made shall be recorded in the said book as the owner of the house or land to which the appeal refers, or by the occupier thereof, or by the agent of either of them.

Notice of day

116. The Commissioners shall give notice of a day, not being less than

for hearing appeals.

fifteen days from the publication of such notice, when they will proceed to hear the appeals under clause (*a*) of section 114.

Every appeal under clause (*b*) of the said section shall be presented to the Small Cause Court within seven days from the date of the delivery of the notice at the office of the Commissioners under the last preceding section.

Assessment by Commissioners when final.

117. The assessment by the Commissioners of any rate, when no appeal therefrom is made as hereinbefore provided, and the adjudication of any appeal under the two last preceding sections, shall be final and conclusive.

Assessments to be entered in assessment-book.

118. The assessments made by the Commissioners, subject to such alterations as may from time to time thereafter be duly made on appeal, shall be entered in the assessment-book, and the rate calculated on the said assessment shall, subject to such alterations as aforesaid, be deemed to be the rate for the whole period for which the assessment is made, and this period shall be calculated from the commencement of the quarter next succeeding that in which any such amendment shall be so authenticated; and until such date the old assessment shall continue in force, notwithstanding that the period for which the old assessment was made may have expired.

Alteration or amendment of assessment.

119. The chairman or vice-chairman may at any time amend the assessment-book by inserting therein the name of any person whose name ought to be so inserted, or by inserting any house or land liable to the rate, after giving notice to any person interested in the making of the amendment of a day, not being less than fifteen days from the date of the service of such notice when such amendment is to be made; or by striking out the name of any person or any house or land not liable to the rate, or reducing the amount of the assessment without notice:

and if any amendment shall be made in cases where notice is required, the same shall be deemed to have been made on the expiration of fifteen days after service of the said notice; and any person interested in such amendment may appeal by application in writing to the Commissioners, to be left at their office three clear days before the day fixed in the said notice for such amendment; and the provisions of sections 114, 115, 116 and 117 shall, so far as may be practicable, apply to such appeal.

New assessment-book need not be prepared every six years.

120. It shall not be necessary to prepare a new assessment-book at the expiration of each period of assessment, but the Commissioners in meeting, other than an ordinary meeting, may adopt the valuation or measurement and assessment contained in any assessment-book for any previous period, with such alterations as may in particular cases be deemed necessary, as the valuation or measurement and assessment for the period next following:

Provided that sections 110 to 118 (both inclusive) shall, as far as may be practicable, be applicable to such valuation or measurement and assessment and to the assessment-book or books in which it is contained.

CHAPTER VI.

Of levying the Rates.

Bills to be presented.

121. When any rate is due, the Commissioners shall cause to be presented to the person liable to the payment thereof a bill for the sum due, which shall also contain a statement of the period and a description of the property for which the rate is charged:

Provided that, whenever any rate is payable by the owner of the land, and the said owner is not the owner of the house situated on the said land, the assessment on the land and on the house shall be separately entered in the said bill.

Notice of demand.

122. If the bill is not paid by the person liable to pay the same within seven days from the presentation thereof, the Commissioners may cause to be served upon such person a notice of demand in the form contained in the fourth schedule, or to the like effect; and if he shall not, within seven days from the service of such notice of demand, pay the sum due, or shew sufficient cause to the satisfaction of the Commissioners for non-payment of the same, such sum, with all costs, may be levied by distress and sale of the moveable property of the defaulter, or if the defaulter be the occupier of any house or land in respect of which a rate is due, by distress and sale of any moveable property found on the house or land, under a warrant in the form contained in the fifth schedule, or to the like effect, to be issued for that purpose by the Commissioners. Distress.

For every notice of demand under this section which the Commissioners shall cause to be served upon any person, a fee not exceeding one rupee shall be paid by such person.

Such fee shall be added to the amount of the rate in respect of which the notice is given, and, if not duly paid, shall be levied in the same manner as such rate may be levied.

Inventory.

Notice of distress.

123. The officer charged with the execution of a warrant of distress under the last preceding section shall make an inventory of the moveable property seized under such warrant, and shall at the time give a notice in writing in the form contained in the sixth schedule, or to the like effect, to the person in possession thereof at the time of the seizure, that the said moveable property will be sold as therein mentioned.

Sale.

124. If the warrant is not in the meantime discharged or suspended by the Commissioners, the moveable property seized shall be sold under the orders of the Commissioners, who shall apply the proceeds, or such part thereof as may be necessary, in discharge of the said arrears and costs;

and the surplus, if any, shall be returned on demand to the person in possession of the moveable property at the time of the seizure.

All sales of property under this section shall, so far as may be practicable, be regulated by the procedure now in force, or hereafter to be in force, in the Court of Small Causes with respect to sale after distress.

Fees shall be payable upon distraints under this Act according to the rates set forth in the table of fees in the sixth schedule.

All officers and servants of the Corporation are prohibited from purchasing any property at any such sale.

Goods of defaulter, wherever found, may be distrained.

125. The moveable property of any person from whom any rate is due may be distrained, wherever the same may be found, for default in payment of the money due from him.

Rate due from owner may be recovered from occupier, and by him deducted from rent.

126. If the sum due on account of any rate from the owner of any house or land remains unpaid after notice of demand has been duly served, the Commissioners may demand the amount from the occupier for the time being of the house or land, and on non-payment thereof, may recover the same by distress and sale of any moveable property found on the house or land, and, in such case, the occupier may deduct, from the next and following payments of his rent, the amount which may be so paid by, or recovered from, him:

Provided that no arrear of rate which has remained due from the owner of any house or land for more than one year shall be so recovered from the occupier thereof.

Distress not unlawful for want of form.

127. No distress levied under this Act shall be deemed unlawful, nor shall any party making the same be deemed a trespasser, on account of any defect or want of form in the notice, schedule, summons, notice of demand, warrant of distress, inventory or other proceeding relating thereto, nor shall such party be deemed a trespasser on account of any irregularity committed by him; but all persons aggrieved by such irregularity may recover full satisfaction for any special damage sustained by them in any Court of competent jurisdiction.

Commissioners may sue, instead of proceeding by distress.

128. Instead of proceeding by distress and sale, or in case of failure to realise by distress and sale the whole or any part of the sum due in respect of any rate, the Commissioners may sue the person liable to pay the same in any Court of competent jurisdiction.

CHAPTER VII.

OF THE WATER-SUPPLY.

Commissioners to provide water-supply.

129. The Commissioners shall provide a supply of water within the town, and shall for that purpose cause such mains and pipes to be laid, and such tanks, reservoirs or other works to be made and constructed, as shall be necessary for the supply of filtered water in all the chief public streets of the town, and shall also erect, in all such streets, sufficient and convenient stand-pipes or pumps for the gratuitous use of the inhabitants of the town for domestic purposes.

The said stand-pipes or pumps shall be so placed that there shall not be any portion of any such chief street at a greater distance than one hundred and fifty yards from some such stand-pipe or pump.

What are not domestic purposes.

130. A supply of water for domestic purposes shall not include a supply of water for animals, or for washing carriages, where such animals or carriages are kept for sale or hire, or a supply for any trade, manufacture or business, or for fountains, or for watering gardens or roads, or for any ornamental or mechanical purpose.

Pressure at which water must be kept.

131. The Commissioners shall, between the hours of six in the forenoon and nine in the afternoon, so far as may be reasonably practicable, keep and maintain in their pipes and mains a sufficient supply of filtered water under a pressure of not less than ten feet for the domestic use of the rate-payers, and shall daily, from the hour of seven in the forenoon to nine in the forenoon, and from the hour of five in the afternoon to six in the afternoon, maintain a pressure of water in the service-pipes and mains sufficient to raise the water in all houses and places in which the same may be introduced to a height of not less than fifty feet.

Supply for business.

132. The Commissioners may supply water through a meter for purposes other than domestic purposes, provided that the person requiring such supply make application to the Commissioners in writing, specifying the purpose for which such supply is required and the quantity likely to be consumed.

The Commissioners may thereupon, subject to such charges or rates as may have been fixed by the Commissioners in meeting, other than an ordinary meeting, lay down, or allow to be laid down, the necessary communication-pipes and works, of such dimensions and character as may be fixed by the Commissioners.

Householder entitled to certain supply of water for domestic use.

133. The occupier of every house shall be entitled to have, free of further charge, fifteen hundred gallons of filtered water for every rupee paid to the Commissioners as water-rate on account of such house, to be supplied from the service-pipes of the Commissioners for domestic use through a ferrule of such size as the Commissioners may determine.

If the Commissioners have reason to believe that the occupier of any house consumes more filtered water than he is entitled to as aforesaid, it shall be lawful for the Commissioners to provide a water-meter at their own expense, and attach the same to the water-pipes of the said house; and any water which may be used over and above the quantity to which the occupier is entitled as aforesaid shall be paid for by him at the rate of one rupee for every fifteen hundred gallons:

Provided that no charge shall be made by the Commissioners for unfiltered water supplied under the next succeeding section.

Nothing contained in the first clause of this section shall apply to houses assessed at less than twelve hundred rupees per annum.

Commissioners may provide filtered or unfiltered water for latrines.

134. It shall be at the option of the Commissioners to provide filtered or unfiltered water for all latrines and water-closets; and wherever filtered water has been already supplied to such latrines or water-closets, it shall be lawful for the Commissioners at their own expense, and not otherwise, to stop the supply of filtered water, and in lieu thereof to provide unfiltered water for such latrines and water-closets.

Latrines to be provided with cisterns.

135. All latrines and water-closets now supplied, or hereafter to be supplied, with water, filtered or unfiltered, shall be provided with a cistern of such size and description as the Commissioners shall direct; and all such cisterns shall be put up at the cost of the owner of the house or land so supplied with water.

Communication-pipes, &c., to be made of required dimensions and at expense of householder.

136. Every person paying the water-rate hereinbefore mentioned shall be entitled to lay down communication-pipes from the service-pipes of the Commissioners for bringing into his house or land a reasonable supply of water for domestic use; provided that the Commissioners shall be at liberty to cut off the supply of water to any house or land during the time the said house or land is unoccupied.

The communication-pipes leading the water from the service-pipes of the Commissioners into the house of any rate-payer, and the pipes and works within the house connected therewith, shall be of such character, dimensions and material as the Commissioners shall fix and approve; and shall be made and constructed at the expense of the person requiring the same.

Communication-pipes, &c. must be made, to satisfaction of officer of Commissioners.

137. The communication-pipes and all fittings thereon leading water from the service-pipes of the Commissioners into any house or land, and the pipes, works and fittings inside the house or land, must in all cases be executed subject to the inspection and to the satisfaction of the Commissioners.

Such communication-pipes, works and fittings may be made by the servants and workmen of the Commissioners upon such terms as may be agreed upon

between the Commissioners and the person requiring the supply, or subject to such charges as may be fixed by the Commissioners;

and the Commissioners may require the amount necessary for the execution of such works to be paid or deposited before such works are executed;

and such charges and expenses shall be recoverable in the same manner as the water-rate.

Power to enter premises.

138. The officer authorized in that behalf by the Commissioners may, between the hours of seven in the forenoon and five in the afternoon, enter into or on any house or land supplied with water as aforesaid in order to examine all pipes, works and fittings connected with the supply of water, and to ascertain if there be any waste or misuse of such water;

and if such officer at any such time be refused admittance into such house or land for the purposes aforesaid, or be prevented from making such examination as aforesaid, the Commissioners may forthwith turn-off the water from such house or land:

Provided that nothing hereinbefore contained shall authorize an entry into any room appropriated for the zanáná or residence of women, which by the custom of the country is considered private, unless a notice in writing of not less than four hours be given.

When pipes out of repair, Commissioners may turn-off water.

139. In the event of any pipes, works or fittings connected with the supply of water to any house or land being at any time found on examination by any officer of the Commissioners authorized in that behalf to be out of repair to such an extent as to cause any waste of water, the Commissioners may cause the water to be turned-off from such house or land, after giving notice in writing of not less than twenty-four hours, and may recover the expense incurred for turning-off the water from the occupier of such house or land.

Water may be cut-off on neglect to pay rate.

140. If any person supplied with water shall neglect to pay the water-rate hereinbefore mentioned at any of the times of payment thereof, or the charge made for the said water when supplied for other than domestic purposes, the Commissioners may turn-off the water from the house or land in respect of which such rate or charge is payable, by cutting-off the pipe to such house or land, or by such means as the Commissioners may think fit, and may recover the expense of turning-off the water from such person:

Provided that the stopping or cutting-off the supply of water shall not relieve any person from any penalties or liabilities which he may otherwise have incurred.

Occupier in whose house water is wasted liable to penalty.

141. The occupier of any house or land in which water supplied by the Commissioners under this Act is, from negligence or other circumstances under the control of the said occupier, wasted, or in whose house or land the pipes, works and fittings for the supply of water shall be found to be out of

repair to such an extent as to cause any waste of water, shall be liable to a fine not exceeding twenty rupees.

Penalty for causing waste.

142. Any person causing waste of water supplied by the Commissioners shall be liable to a fine not exceeding five rupees.

Commissioners at discretion may allow person outside town to take water.

143. It shall be within the discretion of the Commissioners to allow any person not residing within the limits of the town to take or be supplied with water for his domestic use on such terms as the Commissioners in meeting, other than an ordinary meeting, may from time to time prescribe.

Penalty.

And any person taking or causing to be taken for use outside the limits of the town water supplied by the Commissioners, without the permission of the Commissioners, shall be liable to a fine not exceeding fifty rupees.

Person executing work for laying on water must hold license from Commissioners.

144. It shall not be lawful for any person to execute any work in connection with the laying on of water from any service-pipes of the Commissioners to any house or land unless he shall hold a license from the Commissioners authorizing him to act as a plumber under such rules and regulations as the Commissioners may from time to time lay down, and which shall be printed on the back of his license.

Penalty.

Any person licensed by the Commissioners as a plumber, who shall infringe or break any rules or regulations under which he holds his license, shall be liable to have his license at once cancelled by the Commissioners, and shall also be liable to a fine not exceeding twenty rupees.

Owner or occupier when not entitled to demand connection with Commissioners' service-pipes.

145. Any owner or occupier of any house or land who shall cause or allow works, pipes or fittings for the supply of water from the service-pipes of the Commissioners to be executed by any person other than a plumber licensed by the Commissioners shall not be entitled to demand a connection with the Commissioners' service-pipes.

Before connection, engineer of Commissioners to cause works and pipes to be inspected.

146. Before a connection for the supply of water from the service-pipes of the Commissioners to any house or land is sanctioned by the Commissioners, the engineer of the Commissioners shall cause all the works, pipes and fittings within the said house or land to be inspected by a duly qualified officer;

and the cost of such inspection shall be payable in advance at such rates as the Commissioners in meeting, other than an ordinary meeting, shall from time to time direct, by the person applying for the said connection;

and until the engineer of the Commissioners shall have certified that the said works, pipes and fittings have been executed and put up in a satisfactory manner, a connection with the Commissioners' service-pipes shall not be permitted.

Connection with service-pipes to be

147. The connection with the service-pipes of the Commissioners, as also the laying of supply-pipes under any public road or thoroughfare, shall be

executed by an officer of the Commissioners authorized in that behalf and by no other person; executed only by officer of Commissioners.

and the expense of making such connection shall be payable in advance by the person applying for the same at such rates as the Commissioners in meeting, other than an ordinary meeting, shall from time to time direct.

148. If any licensed plumber shall execute any works or put up any fittings within any house or land for the supply of water from the pipes of the Commissioners in a careless and negligent manner, or make use of bad materials or fittings, the said licensed plumber shall be liable to a fine not exceeding twenty rupees, and upon a third conviction shall be liable to have his license cancelled at the discretion of the Commissioners. Penalty on licensed plumber executing works badly.

149. Any person who shall unlawfully flush, draw-off, divert or take water from any water-works belonging to, or under the management or control of, the said Commissioners, or from any water or streams by which such water-works are supplied, shall be liable to a fine not exceeding one hundred rupees. Obstructing or diverting water.

150. Any occupier holding direct from the owner of any house may, by notice in writing signed by him, require the owner of such house to perform all such necessary works as may be required for bringing into such house a supply of water for domestic use. Power to require owner to provide works for water-supply.

Every such notice shall contain an agreement on the part of such occupier to pay interest at the rate of one per centum per mensem, calculated from the date of the completion of the works, on the cost of such works during the residue of his term of occupation:

Provided that, if the house and the premises belonging thereto shall not abut upon some street in which there is a supply-main, such occupier shall, in the agreement, undertake to pay the cost of connecting the house with the nearest supply-main.

151. If any owner shall not, within the space of three months from the service of such notice as is mentioned in the last preceding section, cause such necessary works as aforesaid to be completed, the occupier who shall have given such notice may cause the same to be completed, and may deduct from the rent payable by him the cost of such works, save so much of such cost as may be incurred in connecting with a supply-main any house and premises belonging thereto which may not abut upon a street in which there may be a supply-main; and such deduction shall be made by six equal monthly instalments. Power to occupier to make works in default of owner.

Interest on each such instalment shall be payable to the owner by the occupier at the rate of one per centum per mensem, from the time when it shall have been so deducted.

Taps to be provided.

152. The supply of water to a house shall not be deemed sufficient for domestic use unless it provides two taps in each floor of such house, one other such tap in the cookroom of or attached to such house, and one other such tap in the premises, or in or near the stables belonging to such house, and the necessary works for such taps.

But if the annual rent of such house, with the land attached thereto, shall be less than three hundred rupees, it shall be sufficient to provide one tap only within the said premises, and the necessary works for the same.

Estimate and specification of works to be sent.

153. No works for introducing a supply of water to any house shall be commenced by the owner without sending a specification and estimate of the cost thereof to the occupier, nor by the occupier without sending such specification and estimate to the owner.

Power to refer to arbitration.

154. In case there shall be any difference between the owner and the occupier respecting the cost or the sufficiency of the proposed works, either the owner or the occupier may refer such difference to the Commissioners, and the written award of the engineer of the Commissioners, or of any officer authorized by them in that behalf, shall be binding on the owner and the occupier.

Fee on reference.

155. There shall be payable to the Commissioners in respect of every such reference a fee at the rate of two rupees for every hundred rupees of the monthly rent of the house or land in respect of the water-supply to which the difference may have arisen:

Provided that such fee shall in no case exceed ten rupees, and shall be paid by the person making the reference.

Owner to keep works in repair.

156. Except in the case of a special agreement to the contrary, the owner of any house or land shall bear the expense of keeping all works connected with the supply of water to such house or land in substantial repair:

Provided that nothing in this section shall affect the liabilities of parties under leases executed or made previous to the commencement of this Act.

Power of recovery by owner of sums payable.

157. Any owner to whom any sum is payable under sections 150 and 151 may recover such sum from the person liable to pay the same as if the same were rent payable by such person for the house in respect of which the expenses have been incurred.

Tanks, &c., vested in Commissioners.

158. All public tanks, reservoirs, cisterns, wells, aqueducts, conduits, tunnels, pipes, pumps and other water-works, whether made, laid or erected at the cost of the Commissioners or otherwise, and all bridges, buildings, engines, works, materials and things connected therewith, or appertaining thereto, and also any adjacent land (not being private property) appertaining to any public tank, shall become vested in the Commissioners.

Water fouled by offensive trades.

159. If any person, being the proprietor of any gas-works, or being engaged or employed in the manufacture or supply of gas,

or being the occupier or owner of any place where an offensive trade or manufacture is carried on,

wilfully does any act connected with the said business whereby the water in any stream, tank, reservoir, well, cistern, conduit, aqueduct or other water-works belonging to the Commissioners is fouled or corrupted, the Commissioners may, after twenty-four hours' notice in writing, lay open and examine any pipes, conduits and works belonging to such person:

and if, upon such examination, it appears that the water has been fouled or corrupted by anything proceeding from, or contained in, the pipes, conduits or works examined, the expenses of such examination shall be paid by the person to whom such pipes, conduits or works belong, or under whose management or control they may be;

but if it appear that the water has not been so fouled or corrupted, then such expenses, and all damages occasioned by the examination, shall be paid by the Commissioners.

Application of rates and moneys received from supply of water.

160. The water-rate and all moneys collected, received or recovered for or in respect of the supply of water or the execution of works, and all fines connected therewith, or in any respect relating to the water-supply, shall be applied by the said Commissioners in defraying the expense of making, extending or maintaining the water-works,

in paying the interest of money borrowed for the water-works,

and in the liquidation of debts incurred in connection therewith, or for some other purpose connected with the supply of water.

CHAPTER VIII.

Of the Police-budget.

Commissioner of Police to prepare budget.

161. The Commissioner of Police shall, on or before the first day of September in each year, transmit to the Commissioners a budget or estimate of the expense of the Police-force for the year commencing on the first day of January then next ensuing.

Form of budget.

162. The Police-budget shall shew the various heads of the estimated expenditure of the Police-force, and the intended distribution of the Police-force during the year to which it relates.

Chairman to lay budget before Commissioners.

163. The chairman shall forthwith, upon the receipt of any such budget, cause the same to be printed, and a copy thereof, as far as may be practicable, sent by post or otherwise to each of the Commissioners resident within twenty miles of Government House; and shall lay every such budget before the Commissioners at the next quarterly meeting of the Commissioners, or at a special general meeting.

The Commissioners shall thereupon forward such budget to the Local Government, with such remarks as to them may seem fit, and it shall be in the discretion of the Local Government to pass, or to reject, or to modify, the estimates of all or any sums entered in the same.

Power to bring in supplemental budget.

164. If during any period for which a Police-budget shall have been passed and submitted as aforesaid, it shall appear that the amount provided by such budget is insufficient to defray the necessary expense of the Police-force for such period, the Commissioner of Police may prepare a supplemental budget for such period, and the provisions of the three last preceding sections shall apply to such supplemental budget.

Amount of estimates to be paid to Government.

165. The amount of the estimates passed shall, after deducting therefrom such amount as may from time to time be allowed by the Government from the general revenues towards the maintenance of the Police-force, be paid to the Local Government, or to such officer as the Local Government may from time to time direct, by the Commissioners out of the annual proceeds of the Police-rate; and it shall not be lawful for the Commissioners to expend from the said proceeds any sums for purposes other than those provided in the budget of the Commissioner of Police, and duly sanctioned by the Local Government under section 163.

Commissioner of Police to give accounts of Police expenditure.

166. On or before the first day of April in every year the Commissioner of Police shall present to the chairman, to be laid before the Commissioners at their next monthly meeting, an account of the expense of the Police-force for the year ending the thirty-first day of December then next preceding, and in case the amount which shall during such year have been paid to the Local Government under the provisions hereinbefore contained shall not have been expended in the maintenance of the Police-force, the balance remaining unexpended shall be deemed to have been paid by the Commissioners in or towards discharging the expense of the Police-force during the ensuing year.

CHAPTER IX.

Of the System of Drainage for the Town and its Environs.

Commissioners to drain town.

167. The Commissioners may carry out such a complete system of sewerage and drainage within the town as they may think fit, subject to the approval of the Local Government, and to such alterations as may from time to time be ordered by it.

Local Government may declare environs within

168. The Local Government may determine what portions, if any, of the environs of the town shall be included in the said system of sewerage and drainage, and may declare the boundaries thereof in the *Calcutta Gazette*, and

for the purposes of the drainage-rate the land within such boundaries as aforesaid shall be deemed to be part of the town. drainage-system.

CHAPTER X.

Of the Registration of Births and Deaths.

169. The Commissioners shall keep in their office a register of all births and deaths in the town, and for this purpose shall divide the town into such and so many districts as they shall think fit, and for every such district shall appoint a person to be a registrar of births and deaths within such district; Commissioners may keep register of births and deaths, and appoint registrars.

and the Commissioners shall at each burning ghát and Native burial-ground appoint a sub-registrar for the registration of all corpses brought to such burning ghát or burial-ground for cremation or interment.

170. Every registrar shall dwell within the district of which he is registrar, and every sub-registrar shall dwell in the vicinity of the burning ghát or Native burial-ground for which he is appointed; and they shall cause their names, with the addition of registrar for the district, or sub-registrar for the burning ghát or Native burial-ground, for which they shall be so appointed, to be placed in some conspicuous place on or near the outer door of their own dwelling-houses; Residence of registrar and sub-registrar.

and the Commissioners shall cause to be printed and published a list containing the name and place of abode of every registrar and sub-registrar in the town. List of registrars to be published.

171. The Commissioners shall cause to be prepared and printed a sufficient number of register-books for making entries of all births and deaths which may take place in the town, according to the forms prescribed in the eighth and ninth schedules, and the pages of such books shall be numbered progressively from the beginning to the end. Commissioners to have register-books prepared and numbered.

172. Every registrar shall inform himself of every birth and of every death which shall happen in his district, and shall ascertain and register, as soon as conveniently may be after the event, without fee or reward, the particulars required to be registered according to the forms in the eighth and ninth schedules respectively touching every such birth and every such death, as the case may be, which shall not have been already registered, every such entry being made in order from the beginning to the end of the book. Registrar to inform himself of, and register, births and deaths.

173. The father or mother of every child born in the town, or in the case of the death, illness or absence, or inability of the father and mother, the occupier of the house in which such child shall have been born, shall, within eight days after the day of the birth, give information to the registrar Information of birth to be given within eight days.

of the district, according to the best of his or her knowledge and belief, of the several particulars by this Act required to be known and registered touching the birth of such child.

Information of death to be given.

174. Some one of the persons present at the death, or in attendance during the last illness, of every person dying in the town, or, in case of the death, illness, inability or default of all such persons, the occupier of the house, or if the occupier be the person who shall have died, some person living in the house in which such death shall have happened, shall forthwith give information to the registrar of the district, or sub-registrar at the burning ghát or burial-ground, according to the best of his or her knowledge and belief, of the several particulars hereby required to be known and registered touching the death of such person:

Provided that, in lieu of the information hereinbefore stated, in the case of persons dying in any hospital, it shall be the duty of the medical officer in charge forthwith to send a notice in writing to the Commissioners in the form prescribed in the ninth schedule of the occurrence of any death in the hospital under his charge.

Penalty.

175. Any person whose duty it shall be to give information to a registrar or sub-registrar under the two last preceding sections, who shall refuse or neglect to give such information, or who shall give false information, shall be liable to a fine not exceeding twenty rupees.

Person giving information to sign register.

176. Every person by whom the information contained in any register of births or deaths under this Act shall have been given shall sign in the register his name, description and place of abode; and no such registration shall be deemed to be complete or of any effect until such person shall have so signed it:

Provided that the registrar may fill up and sign the register for any person who is unable to write:

Provided further, that in the case of a person dying in any hospital the registration of the death shall be deemed to be complete on receipt by the Commissioners of the written notice from the medical officer in charge of the said hospital prescribed in section 174.

Corpse to be accompanied by certificate before it is buried or burned.

177. It shall not be lawful for any sexton, keeper of a cemetery, burial-ground or burning ghát to bury, burn or allow to be buried or burned, any corpse, unless the said corpse is accompanied by a certificate in the form specified in the ninth schedule, and signed by a registrar or sub-registrar appointed under section 169, or by a medical officer.

Penalty.

178. Whoever buries, burns or allows to be buried or burnt, a corpse without the certificate mentioned in the last preceding section shall be liable to a fine not exceeding one hundred rupees.

OF TAKING A CENSUS.

Account of population to be taken.

179. At such times and in such manner as the Commissioners may from time to time appoint, an account shall be taken of the number of persons who at the time of taking such account shall be within the town, and the persons employed in taking such account shall set down the several particulars respecting the same which are hereinafter prescribed.

Chairman or vice-chairman to superintend taking of account of population.

180. The chairman or vice-chairman shall superintend the taking of such account, and shall cause to be prepared and issued, for the use of the persons to be employed, such forms and instructions as he shall, with the sanction of the Local Government, deem necessary; and the expenses thereby incurred shall be paid out of the municipal fund.

Enumeration-districts.

181. Each Police-division of the town shall be formed into one or more enumeration-districts.

At appointed time occupiers of houses to give required information.

182. At such times as shall be appointed under section 179, and as shall be notified in the *Calcutta Gazette* by the Local Government, every occupier of a dwelling-house, or of any part of a dwelling-house distinctly occupied, and every person to whom a form, as mentioned in section 184, may have been delivered, shall afford such information in regard to all persons who were abiding in his house, or in the place under his charge, on the night immediately preceding, and in such manner as may under this Act be required of them.

Persons to be employed as enumerators.

183. The chairman shall select a sufficient number of competent persons to act as enumerators; and every such enumerator, under the direction of the chairman, shall visit every house within his district, and, except as hereinafter provided, shall take an account in writing of the name, sex, age, caste, nationality and occupation of every living person who shall abide therein on the night immediately preceding the day appointed as aforesaid, and shall also take an account of the occupied houses, and the houses then being built and therefore uninhabited, and also of all other uninhabited houses within his district, and in all respects conform to, and obey, the instructions which may be issued to him by the chairman in this behalf:

Provided that, in the case of females, no account shall be taken either of their name or age.

Forms for census.

184. The chairman, when he deems such a course to be advisable, may cause such a form as shall be sanctioned by the Commissioners in meeting, subject to the approval of the Local Government, to be delivered to any occupier of any dwelling-house who may be able to write, and such occupier shall fill in all the particulars required in the form on the day to be appointed, and shall deliver the same to the person authorized to demand the same.

Military and naval officers and others, if required, to act as enumerators.

185. Any military or naval officers in command of bodies of military or naval men, or of vessels of war, or any master of a merchant-vessel, or nákodá or tindal of a vessel or boat, or any person in charge of a lunatic asylum, hospital or prison, or of any public or private charitable or scholastic institution, or any keepers of hotels or lodging-houses, shall, if required, act as enumerators for the purpose of taking account of persons under their command or charge, or abiding in their houses, on the night immediately preceding the day to be appointed.

Penalty.

186. Whoever, being required under section 184 to fill in any form, or under section 183 to act as an enumerator, fails so to do, shall be liable to a fine not exceeding one hundred rupees for every such offence.

Every person so required to act as an enumerator shall receive and conform to all instructions in writing which may be issued to him by the chairman in that behalf.

Returns of houseless persons.

187. The chairman shall obtain, by such ways and means as shall appear to him best adapted for the purpose, and as shall be sanctioned by the Commissioners in meeting, returns of the particulars required by this Act with respect to all houseless persons and all persons who, during the said night immediately preceding the day to be appointed, were on out-door night-duty, or for any other reason were not abiding in any house of which account is to be taken by the enumerators.

Enumerators to fill in for those unable to write.

188. The enumerators shall fill in all forms for those persons who are unable to write.

CHAPTER XI.

Of Conservancy and Improvement.

Part I.—*Of the Streets.*

Public streets vested in Commissioners.

189. All public streets in the town (not being the property and kept under the control of the Government) and the pavements, stones and other materials thereof, and also all erections, materials, implements and other things provided for such streets, shall vest in and belong to the Commissioners.

Power to make and improve streets.

190. The Commissioners, making due compensation to the owners and occupiers of any houses or land which may be required for any such purposes, may

(*a*) lay out and make new streets;

(*b*) build and construct new bridges;

(*c*) turn, divert, discontinue or stop-up any public street; and

(*d*) widen, open, enlarge or otherwise improve any such street.

For the purposes of this section, the Commissioners in meeting may purchase any land necessary for houses and buildings to form any public street, or for the improvement of any public street.

Maintenance and repair of streets.

191. The Commissioners shall, so far as the municipal fund permits, from time to time cause the public streets to be maintained and repaired, and for such purpose may do all things necessary for the public safety and convenience.

Gross proceeds of lighting-rate to be applied for purposes of lighting.

192. The Commissioners shall cause the public streets of the town to be sufficiently lighted, and the sum applicable annually to the current expenses of lighting the said streets shall be the gross proceeds of the said lighting-rate and no more; but the Commissioners may expend, out of the municipal fund, such further sums as may from time to time be requisite for the purchase, setting-up, cleaning and maintenance of lamps, lamp-posts, pipes and other necessary apparatus.

Cleansing streets.

193. The Commissioners shall cause the public streets to be regularly swept and cleansed; and the dust, dirt, filth and refuse of every kind whatsoever found thereon to be collected and removed.

Dust-boxes in streets.

194. The Commissioners may cause any number of moveable or fixed dust-boxes or other convenient receptacles, wherein dust, dirt, filth and refuse arising from the ordinary domestic use of houses may be temporarily deposited until removed and carried away, to be provided and placed in proper and convenient situations, and may require the occupiers of houses in public streets to cause all such matter as aforesaid to be deposited daily, or otherwise periodically, in such receptacles and between such hours as they may from time to time direct.

Penalty.

195. Every person who, after such receptacles have been provided, and after such requisition as above-mentioned, shall deposit, or cause or permit to be deposited, any such matter in any public street, except in such receptacles, shall be liable to a fine not exceeding ten rupees.

Penalty for depositing dirt in public street, &c.

196. Whoever deposits, or suffers to be deposited, any dust, dirt, filth or refuse of any kind whatsoever, in any public street, or on any public quay, jetty, ghát or landing-place, or on any part of the river-bank, whether above or below high-water mark, except in such places, and in such manner, and at such hours, as shall be fixed by the Commissioners, shall be liable to a fine not exceeding ten rupees for every such offence.

Penalty for allowing sewerage to flow on streets.

197. Whoever causes or allows the water of any sink or sewer, or any other offensive liquid matter belonging to him or being in his house or land, to run, drain or be thrown or put upon any street (public or otherwise), or causes or allows any offensive matter from any sewer or privy to run, drain or be thrown into a surface-drain in any street (public or otherwise), shall be liable to a fine not exceeding ten rupees for every such offence.

Watering streets.

198. The Commissioners shall, so far as the municipal fund permits, and so far as they may deem requisite for the public convenience, cause the chief public streets to be watered; and for that purpose may provide such works and engines as they may think necessary.

Penalty for making obstructions in public streets.

199. Whoever builds any wall, or erects or sets-up any fence, rail, post or other obstruction or encroachment in any public street, or in or over any drain, sewer or aqueduct after the commencement of this Act, shall be liable to a fine not exceeding one hundred rupees; and the Commissioners shall have power to remove any such obstruction or encroachment, as also all walls, fences, rails, posts or other obstruction or encroachment erected in any public street, or in or over any open drain, sewer or aqueduct, subsequent to the first of June in the year 1863, and the expense of such removal shall be paid by the person erecting the same, and shall be recoverable as hereinafter provided.

Temporary erections on occasions of festivals, &c.

Nothing herein contained shall prevent the Commissioners from allowing any temporary erections[a] in any public street on occasions of festivals and ceremonies, or for building purposes.

Private persons laying out new streets.

200. Every person who wishes to make or lay out any new street shall give notice in writing thereof to the Commissioners, shewing the intended level and width of such street, and the level and width of every such street shall be fixed or approved by the Commissioners;

and the Commissioners may, if they think fit, cause any such street, laid out or made at a level or width otherwise than in accordance with the level or width so fixed or approved as aforesaid, to be altered;

or may cause any house erected in any such street otherwise than in accordance with such level and width to be altered, or, if necessary, removed,

and the expenses thereby incurred shall be paid by the person offending.

If no such level or width be fixed, and no approval or disapproval of the level or width proposed be signified by the Commissioners within one month from the delivery of the aforesaid notice at the office of the Commissioners, the intended street may be laid out and made upon the level and of the width specified in the notice.

Penalty.

201. Whoever lays out, makes or builds upon any such street, otherwise than in accordance with the level and width so fixed or approved, shall be liable to a fine not exceeding five hundred rupees.

Paving, &c., of streets.

202. If any street or any part thereof be not levelled, paved, metalled, flagged, channelled and sewered to the satisfaction of the Commissioners, they may, by notice in writing to the respective owners or occupiers of the land fronting, adjoining or abutting upon such parts thereof as may need to be

[a] See *infra*, section 359.

levelled, paved, metalled, flagged, channelled and sewered, require them to level, metal, pave, flag, channel and sewer the same within a time to be specified in such notice; and upon non-compliance, the Commissioners may, if they think fit, execute the works mentioned or referred to therein;

and the expenses thereby incurred shall be paid by the owners in default according to the frontage of their respective lands, and in such proportion as shall be settled by the Commissioners or, in case of dispute, as shall be settled in the manner hereinafter provided for the settlement of disputes respecting damages and expenses:

Provided that, after such street shall have been so levelled, paved, metalled, flagged, channelled and sewered on the requisition of the Commissioners, or by the Commissioners as aforesaid, at the expense of the owners, such owners shall have a right to require that the street shall be declared a public street, to be from time to time repaired by the Commissioners out of the municipal fund.

Streets to be deemed public and repaired by Commissioners.

203. If any street be levelled, paved, metalled, flagged, channelled and sewered to the satisfaction of the Commissioners, they may, if they think fit, and if three-fourths of the owners of houses in such street signify in writing their consent thereto, by notice in writing put up in any part of such street, declare the same to be a public street, and thereupon the same shall become a public street, and be from time to time repaired by the Commissioners out of the municipal fund.

Names of public streets.

204. The Commissioners in meeting shall from time to time cause to be put up or painted on a conspicuous part of some house, wall or place, at or near each end, corner or entrance of every public street, the name by which such street is to be known; and whoever destroys, pulls down or defaces any such name, or puts up any name different from that put up by order of the Commissioners, shall be liable to a fine not exceeding twenty rupees.

Penalty.

Numbers on houses.

205. The Commissioners may from time to time fix a number in a conspicuous place on the outer side of any house, or at the entrance of the enclosure thereof; and whoever destroys, pulls down or defaces any such number shall be liable to a fine not exceeding twenty rupees.

Penalty.

Doors not to open outwards.

206. All doors, gates, bars and ground-floor windows (whether hung or placed before or after the commencement of this Act) which open upon any public street, shall be hung or placed so as not to open outwards and cause obstruction;

and if any such door, gate, bar or window be hung or placed so as to open outwards on any such public street, the owner of the house or land to which the same is attached shall, within eight days after notice from the Commissioners to that effect, cause the same to be altered so as not to open outwards;

and if he neglects so to do, the Commissioners may make such alteration, and the expenses thereby incurred shall be paid by such owner.

Troughs and pipes to be fixed to houses.

207. The owner of every house in any public street shall, within fifteen days after notice from the Commissioners, put up and keep in good condition proper troughs and pipes for catching and carrying the water from the roof and other parts of such house, and for discharging the same in such manner as the Commissioners shall direct; and in default of compliance with such notice within the period aforesaid, such owner shall be liable to a fine not exceeding ten rupees for every day that he shall so make default.

Penalty.

Projections erected in future from houses to be removed.

208. The Commissioners may give notice in writing to the owner or occupier of any house to remove or alter any projection, encroachment or obstruction, which, after the commencement of this Act, shall be erected or placed against or in front of such house, or which has been so erected or placed subsequent to the first of June in the year 1863, and such owner or occupier shall, within fifteen days after the service of such notice upon him, remove such projection, encroachment or obstruction, or alter the same in such manner as shall have been directed by the Commissioners, and in default thereof shall be liable to a fine not exceeding two hundred rupees; and the Commissioners in such case may remove such projection, encroachment or obstruction, and the expense of such removal shall be paid by the owner or occupier so making default, and shall be recoverable as hereinafter provided:

Provided that, when the expense shall have been paid by the occupier, except in the case in which such projections, encroachments or obstructions were made or put up by him, such occupier shall be entitled to deduct the expense of removing or altering the same from the rent payable by him to the owner of the house.

Removal of existing projections from houses.

209. The Commissioners may cause any projection, encroachment or obstruction erected or placed against, or in front of, any house in any public street previous to the first of June in the year 1863, to be removed or altered as they think fit; provided that they give notice of such intended removal or alteration to the occupier of the house against, or in front of, which such projection, encroachment or obstruction shall be, thirty days before such alteration or removal is begun; and if such projection, encroachment or obstruction shall have been lawfully made, they shall make reasonable compensation to every person who suffers damage by such removal or alteration; and if any dispute shall arise touching the right of any person to compensation when the right thereto is disputed and the amount thereof, or touching the amount of such compensation when the right thereto is admitted, the same shall be settled in the manner hereinafter provided for the settlement of disputes respecting damages and expenses.

Notice of removal.

Compensation when to be made.

Commissioners may allow projections from houses.

210. The Commissioners may give permission in writing to the owners or occupiers of houses abutting on any public street or drain or sewer to put up verandahs, balconies, sunshades, weather-frames and the like, to project from any upper story thereof over any public street or drain or sewer.[a]

Roofs and external walls of huts not to be made of inflammable materials.

211. The external roofs and walls of huts or other buildings erected or renewed within the town, after the commencement of this Act, shall not be made of grass, leaves, mats or other such inflammable materials; and it shall not be lawful for the owner of any hut or other building in or near any street (public or otherwise) now having an external roof or wall made of any such material, and which is contiguous to or adjoining to any other building, to suffer such roof or wall to remain after the commencement of this Act unless with the consent in writing of the Commissioners; and whoever makes any external roof or wall of such materials, or suffers any roof or wall made of such materials to continue, contrary to the provisions herein contained, and who shall not remove or alter the same within one month after notice given to him for that purpose by the Commissioners, shall be liable to a fine not exceeding ten rupees for every day that such roof or wall shall continue.

Penalty.

Commissioners may direct hedges to be trimmed.

212. The Commissioners may give notice to the owner or occupier of any house or land to trim or prune the hedges thereof bordering on any public street to a height not exceeding seven feet;

or to cut and trim trees overhanging any public street and obstructing the same or causing damage thereto;

and if such notice is not complied with within three days from the date thereof, the Commissioners may cause such hedges and trees to be cut in the manner required, and the expenses thereby incurred shall be paid by the owner of the house or land.

No one to deposit materials or make hole in public street.

213. No person shall deposit any building materials or make a hole in any public street without the permission of the Commissioners in writing;[b] and when such permission is granted to any person, he shall, at his own expense, cause such materials or such hole to be sufficiently fenced and enclosed, until the materials are removed or the hole is filled up and otherwise made secure; and shall cause the same to be sufficiently lighted at night.

Penalty.

214. Whoever deposits materials or makes a hole without such permission, or fails to fence or enclose and light such materials or hole, or does not remove such materials or fill up such hole when the permission has been withdrawn, shall be liable to a fine not exceeding fifty rupees, and to a further fine not exceeding fifty rupees for each day during which the offence is continued after he has been convicted of such offence.

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[a] See *infra*, section 359.

[b] See *infra*, section 360.

PART II.—*Of the Drains.*

Public sewers, drains, &c., vested in Commissioners.

215. All public sewers and drains, and all sewers, drains, tunnels and culverts, in, alongside or under, the public streets, whether made at the cost of the Commissioners or otherwise, and all works, materials and things appertaining thereto shall become vested in the Commissioners.

Powers of Commissioners in making public sewers.

216. The Commissioners in making any main or other sewers for the drainage of the town may, if necessary, carry such sewers through, across or under, any public street, or any place laid out as, or intended for, a street, or any cellar or vault which may be under any of the public streets, and (after reasonable notice in writing in that behalf) into, through or under, any land whatsoever, making full compensation for any damage done thereby; and if any dispute shall arise with respect to the amount or apportionment of such compensation, the same shall be settled in the manner hereinafter provided for the settlement of disputes respecting damages and expenses.

Commissioners to repair and alter, and close, sewers.

217. The Commissioners shall maintain, and from time to time repair, and, as they think fit, enlarge, alter, arch over or otherwise improve, all or any of the sewers and drains vested in them;

and may discontinue, close up or destroy such of them as they may deem useless or unnecessary.

If by reason of anything done under this section any person is deprived of the lawful use of any sewer or drain, the Commissioners shall, at a place within one hundred feet of the sewer or drain of the use of which he is deprived, provide the means of drainage into some public sewer, tidal river or other place into which the Commissioners are empowered to empty their sewers, and thereupon the owner shall make a drain leading thereunto, of such materials, of such size, at such level, and with such fall, as the Commissioners shall direct;

and if he neglect to do so within a reasonable time, the Commissioners may cause the same to be done, and the expenses thereby incurred shall be paid by the owner.

Cleansing and emptying sewers.

218. The Commissioners shall, so far as the municipal fund permits, cause the sewers and drains vested in them to be so constructed, maintained and kept as not to be a nuisance or injurious to health, and to be properly cleared, cleansed and emptied;

and, for the purpose of flushing, cleansing and emptying the same, may construct and place, either above or underground, reservoirs, sluices, engines and other necessary works;

and may also, with the sanction of the Local Government, cause all or any of such sewers and drains to communicate with, and be emptied into, any tidal

river or other fit place, or cause the refuse from such sewers and drains to be conveyed by a proper channel to the most convenient site for its deposit, and may sell the same for any agricultural or other purpose as may be deemed most expedient, but so that the same shall not become a nuisance.

Bed of stream receiving sewerage to be cleared.

219. When the contents of any sewer or drain, or any other flow of filth or refuse, are discharged into any river or stream in the bed or channel of which the quantity of water at any season of the year is so much diminished, by natural or artificial causes, as to be insufficient to keep such channel clean or clear, the Commissioners, with the sanction of the Local Government, so far as the municipal fund permits, shall make such alteration in the bed of such river or stream as may prevent such sewer and drain-water from spreading over the surface of such bed, or from accumulating and stagnating in parts thereof, to the injury of health or the annoyance of the surrounding population.

Unauthorized drains leading into public sewers may be demolished.

220. If any person, without the written consent of the Commissioners first obtained, makes or causes to be made, or alters or causes to be altered any drain leading into any of the sewers or drains vested in the Commissioners, the Commissioners may cause such branch-drain to be demolished, altered, re-made or otherwise dealt with as they shall think fit;

and the expenses thereby incurred shall be paid by the person making or altering such branch-drain.

Penalty for altering or making unauthorized drains leading into public sewers.

221. Whoever, without the written consent of the Commissioners first obtained, makes or causes to be made, or alters or causes to be altered, any drain leading into any of the sewers or drains vested in the Commissioners by this Act, shall be liable to a fine not exceeding two hundred rupees.

Commissioners empowered to make drains from houses not properly drained.

222. If any house or land within the town, and within a reasonable distance of a sewer fit for use, or of some tidal river or other place at which the Commissioners are empowered to empty their sewers, be at any time not drained to the satisfaction of the Commissioners by sufficient drains or pipes communicating with some sewer, tidal river or other place as aforesaid, the Commissioners may, if the owner neglects to do so within fifteen days after notice, construct or lay through or from such house or land, covered drains or pipes of such materials, of such size, at such level, and with such fall, as they shall think necessary for the complete draining of such house or land;

and the expenses thereby incurred shall be paid by the owner.

Commissioners may construct portions of drains under public drains and streets.

223. The Commissioners themselves may construct and lay down such portions of the drains mentioned in sections 217, 222, 225 and 226 as may be carried through or under any public drain, aqueduct or street, and the expenses thereby incurred shall be paid by the owner.

Supervision of certain works.

224. The Commissioners may cause the works mentioned in the said sections to be supervised while in progress, and from time to time during their execution order such reasonable alterations therein, additions thereto and abandonment of part or parts thereof, as may to the Commissioners appear, on the fuller knowledge afforded by the opening of the ground, requisite to secure the complete and satisfactory execution of such works as aforesaid.

Group or block of houses, &c., may be drained by combined operation.

225. If it appear to the Commissioners that a group or block of houses may be drained or improved more economically or advantageously in combination than separately, and a sewer of sufficient size already exists, or is about to be constructed, within one hundred feet of any part of such group or block of houses, the Commissioners may cause such group or block of houses to be drained and improved by a combined operation;

and the expenses thereby incurred shall be paid by the owners of such houses in such proportions as shall to the Commissioners seem fit.

Sewers in streets to be covered with traps, &c.

226. All sewers and drains in streets (public or otherwise) shall be provided by the Commissioners, or by the persons to whom they severally belong, with proper traps or other coverings or means of ventilation, so as to prevent stench.

If the owner of any private sewer or drain shall, for ten days after notice given to him by the Commissioners, neglect or delay to provide proper traps or coverings or means of ventilation as aforesaid, the Commissioners may forthwith provide and apply the same;

and the expenses thereby incurred shall be paid by the owner.

Power of Commissioners to erect or affix to building pipes for ventilation of sewers.

227. The Commissioners may erect on, or fix to, any house such pipes as they may deem necessary for the proper ventilation of the sewers belonging to them, and such pipes shall be carried to a height of not less than six feet above the highest part of the house, and erected so as not to occasion any nuisance or inconvenience to any house in the neighbourhood.

Branch-drains, privies, &c., to be under control of Commissioners, and to be kept in good order by owners.

228. All branch-drains, as well within as without the house or land to which they belong, and all privies and cess-pools within the town, shall be under the survey and control of the Commissioners, and shall be altered, supplied with water, connected with a sewer, repaired, stopped-up, demolished and kept in proper order at the costs and charges of the owner of the house or land to which the same belong, or for the use of which they are constructed or continued;

and if the owner of any house or land to which any such drain, privy or cess-pool belongs, neglect, during eight days after notice in writing for that purpose, to alter, lay water to, connect with a sewer, repair, stop-up, demolish or put in good order the same, in the manner required by the Commissioners, the Commissioners may cause such drain, privy or cess-pool to be altered,

supplied with water, connected with a sewer, repaired, stopped-up, demolished or put in good order;

and the expenses thereby incurred shall be paid by the owner.

Commissioners may alter drain, &c., made contrary to order.

229. If any branch-drain, privy or cess-pool be constructed contrary to the directions and regulations of the Commissioners, or contrary to the provisions of this Act, or if any person, without the consent of the Commissioners, constructs, rebuilds or unstops any branch-drain, privy or cess-pool which has been ordered by them to be demolished or stopped-up, or not to be made, the Commissioners may cause such amendment or alteration to be made in any such drain, privy or cess-pool as they think fit;

and the expenses thereby incurred shall be paid by the person by whom such drain, privy or cess-pool was improperly constructed, rebuilt or unstopped.

Penalty for persons making or altering drains contrary to orders of Commissioners.

230. Whoever constructs any drain, privy or cess-pool after the commencement of this Act contrary to the directions and regulations of the Commissioners, or contrary to the provisions of this Act, or, without the consent of the Commissioners, constructs, rebuilds or unstops any drain, privy or cess-pool which has been ordered by them to be demolished or stopped-up, or not to be made, shall be liable to a fine not exceeding fifty rupees.

Inspection of drains, privies and cess-pools.

231. The Commissioners, or any officer authorized by them in that behalf, may inspect any branch-drain, privy or cess-pool, and for that purpose, at any time between sunrise and sunset, after one hour's notice in writing to the occupier of the house or land to which such drain, privy or cess-pool is attached, may enter upon such house or land with such assistants and workmen as are necessary, and cause the ground to be opened where they or he may think fit, doing as little damage as may be;

and if, upon such inspection, it appears that such drain, privy or cess-pool is not in good order and condition, or that it has been constructed contrary to the provisions of this Act, the expenses of such inspection shall be paid by the person to whom such drain, privy or cess-pool may belong;

but if the drain, privy or cess-pool be found to be in proper order and condition, and not to have been constructed in violation of the provisions of this Act, the Commissioners or officer as aforesaid shall cause the ground to be closed and made good as soon as may be, and the expenses of opening, closing and making good such drain, privy or cess-pool, shall in that case be paid by the Commissioners:

Provided that nothing hereinbefore contained shall authorize an entry into any room appropriated for the zanáná or residence of women, which by the custom of the country is considered private, unless a notice in writing of not less than four hours be given.

Penalty for throwing rubbish into sewers.

232. Whoever throws or puts, or permits his servants to throw or put, any earth, dirt, ashes, garden, kitchen or stable refuse, or any broken glass or earthenware, or other rubbish, or, until suitable sewers shall be provided, any night-soil into any sewer or drain belonging to the Commissioners, or into any drain communicating therewith, shall be liable to a fine not exceeding fifty rupees for every such offence, and to a further fine, not exceeding thirty rupees, for each day during which the offence is continued after he has been convicted of such offence.

No latrine to be constructed within fifty feet of tank.

233. No person shall, without the permission of the Commissioners in writing, construct or keep any latrine, urinal, cess-pool, house-drain or other receptacle for filth, sewage, house-drainage or other offensive matter, within fifty feet of any public tank or a tank which the inhabitants of any locality are entitled to use.

Any person upon whose land any latrine, urinal, cess-pool, house-drain or other receptacle so situated shall be now existing or hereafter constructed, shall remove the same within forty-eight hours of the receipt of a written notice from the Commissioners.

Penalty.

234. Any person failing to comply with the notice mentioned in the last preceding section shall be liable to a fine not exceeding twenty rupees, and to a further fine, not exceeding three rupees, for every day that the latrine, urinal, cess-pool, house-drain or other receptacle remains within the limits aforesaid.

PART III.—*Of General Conservancy.*

Removal of night-soil.

235. The Commissioners from time to time may appoint

(*a*) the hours within which night-soil or other offensive matter may be removed;

(*b*) the kind of cart or other receptacle in which it may be removed;

(*c*) the route by which such cart or receptacle shall proceed.

Penalty.

236. When the Commissioners have fixed such hours and given public notice thereof, whoever removes or causes to be removed along any street (public or otherwise) any such offensive matter at any time, except within the hours so fixed, and also, whoever at any time, whether such hours have been fixed by the Commissioners or not, uses for any such purpose any cart, carriage or other receptacle or vessel other than that approved and sanctioned by the Commissioners, or slops or spills any such offensive matter in the removal thereof, or

does not carefully sweep and clean every place in which any such offensive matter has been slopped or spilled, or

places or sets down in any public place any vessel containing such offensive matter,

or drives or takes, or causes to be driven or taken, any cart, carriage, receptacle or vessel used for any such purpose as aforesaid, through any street (public or otherwise), or by any route other than that, from time to time, by public notice, appointed for that purpose by the Commissioners, shall be liable to a fine not exceeding twenty rupees for every such offence.

Places of deposit for filth.

237. The Commissioners shall from time to time appoint or provide places for the deposit of dust, dirt, filth and any other refuse whatsoever collected and removed in accordance with this Act;

and for keeping all cattle, carts, implements and other things required for the above or any of the purposes of this Act.

Penalty.

238. Whoever, being the occupier of any house or land, keeps or suffers to be kept any dirt, dust, filth or refuse of any kind whatsoever for more than twenty-four hours, otherwise than in a proper receptacle, or suffers such receptacle to be in a filthy or noxious state, shall be liable to a fine not exceeding fifty rupees, and to a further fine, not exceeding thirty rupees, for each day during which the offence is continued after he has been convicted of such offence.

Filth and refuse to be property of Commissioners.

239. All dirt, dust, filth and any other refuse whatsoever, collected from the streets (public or otherwise), houses, privies, sewers and cess-pools shall belong to the Commissioners, who may sell or dispose of the same as they may think proper, and the money arising from the sale thereof shall form part of the municipal fund.

Power to shut up, secure, clear and clean deserted houses.

240. If any house or land, by reason of abandonment, or of disputed ownership, or other cause, shall

remain untenanted, and thereby become a resort of idle and disorderly persons,

or become in a filthy or unwholesome state,

or be complained of by any two or more of the neighbours as a nuisance,

the Commissioners, after due enquiry, may cause notice in writing to be given to the owner, or to the person claiming or believed to be the owner, if he be known and resident within the limits of their jurisdiction, and shall also cause such notice to be put on the door of the house or some conspicuous part of the land, requiring the persons concerned therein, whoever they may be, to secure, enclose, clean or clear the same;

and if such notice shall not be complied with within eight days, the Commissioners shall cause the necessary work to be executed, and the expenses thereby incurred shall be paid by the owner, or, in case of abandonment or disputed ownership, by the sale of any materials found upon such house or land, and the provisions of section 267 shall be applicable to such sales.

Common necessaries.

241. The Commissioners may provide and maintain in proper and convenient situations, so as not to create a nuisance, common necessaries and urinals, and shall cause the same, when provided, to be kept in proper order and to be daily cleansed.

Licensing of public necessaries and tola mehtars' depôts.

242. The Commissioners may license,[a] for any period not exceeding one year, such necessaries for public accommodation and such tola mehtars' depôts as they may, from time to time, think proper; and may at any time, on giving one month's notice, cancel any license granted under this section, if it shall seem proper to them to cancel it.

No person shall carry on the business of a tola mehtar without obtaining a license from the Commissioners.

Penalty.

243. Whoever keeps any public necessary or any tola mehtars' depôt without a license as mentioned in the last preceding section, or, having a license, suffers such public necessary or tola mehtars' depôt to be in a filthy or noxious state, shall be liable to a fine not exceeding one hundred rupees for every such offence, and to a further fine, not exceeding seventy rupees, for each day during which the offence is continued after he has been convicted of such offence;

and whoever shall carry on the business of a tola mehtar without obtaining a license from the Commissioners, shall be liable to a fine not exceeding twenty rupees.

Commissioners may direct performance of duties usually performed by mehtars.

244. The Commissioners in meeting, other than an ordinary meeting, may, by advertisement in at least two of the daily newspapers published within the town and by placards posted up in conspicuous places throughout the town, or any portion thereof, declare that the duties usually performed by tola mehtars within the boundaries specified in the aforesaid advertisement shall be performed by an establishment under the control of the Commissioners; and the Commissioners shall make suitable provision accordingly.[b]

When the Commissioners have made such provision, the occupier of any house or land in respect of which such duties are performed shall be liable to pay in respect of the same such fees as may be imposed by the Commissioners in meeting, other than an ordinary meeting, and the said fees shall be recovered from such occupier as a rate under chapter VI.

Neglecting to enclose private privy.

245. The owner or occupier of any land having a privy on it shall have such privy shut out by a sufficient roof and wall or fence from the view of persons passing by or residing in the neighbourhood: and no person shall keep a privy with a door or trapdoor opening on to any street (public or otherwise) or drain.

Penalty.

Every owner or occupier who shall omit to comply with, or shall commit any breach of, any of the provisions of this section, shall be liable to a fine not

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[a] As to the fee, see section 359, *infra*.

[b] See section 340, clause (*d*), *infra*.

exceeding ten rupees, and to a further fine, not exceeding five rupees, for each day the offence is continued after he has been convicted of such offence:

Provided that the Commissioners may, in their discretion, permit the continuance, for such time as they may fix, of any such privy with a door or trapdoor opening on to any street (public or otherwise) where such privy already exists and does not create a nuisance.

Commissioners may cause additional privies to be provided for any land.

246. If the Commissioners think that any privy or additional privy should be provided for any house or land, the owner of such house or land shall, within fourteen days after notice in that behalf by the Commissioners, cause such privy, together with the necessary pipes, drains and water-supply, to be constructed in accordance with the requisition of such notice; and if such privy be not so constructed to the satisfaction of the Commissioners within such period, the Commissioners may cause such privy, together with the necessary pipes, drains and water-supply, to be so constructed, and the expenses thereby incurred shall be paid by the owner.

Milkman, &c., not to keep animals or cattle without license.

247. No milkman, cartman, shepherd, livery stable-keeper or keeper of hackney-carriages, shall keep any animals, sheep, goats or horned cattle within the town for the purposes of trade or business, except in a place licensed by the Commissioners.

Such license shall be taken out half-yearly, on the first day of January and the first day of July in every year.

It shall be in the discretion of the Commissioners in meeting to grant any such license subject to such conditions as they may think fit, and to impose a fee not exceeding five rupees in respect of the same.

Penalty.

248. Whoever, being a milkman, cartman, shepherd, livery stable-keeper or keeper of hackney-carriages, keeps any animals, sheep, goats or horned cattle without such license, shall be liable to a fine not exceeding one hundred rupees, and to a further fine, not exceeding twenty rupees, for each day during which the offence is continued after he has been convicted of such offence.

Penalty.

249. Whoever, being the holder of a license under section 247, breaks the conditions of such license shall be liable to a fine not exceeding fifty rupees, and to a further fine, not exceeding ten rupees, for each day during which the offence is continued after he has been convicted of such offence.

Regarding pig-styes, sheep and cattle.

250. No person shall keep any pig-stye within the town to the front of any street (public or otherwise) not being shut out therefrom by a sufficient wall or fence, and no person shall keep within the town, without the permission of the Commissioners, more than ten pigs or more than twenty sheep or goats.

Penalty.

251. Whoever keeps any pig-stye, pigs, sheep or goats contrary to the provisions of the last preceding section, shall be liable to a fine not exceeding

fifty rupees, and to a further fine, not exceeding thirty rupees, for each day during which the offence is continued after he has been convicted of such offence.

Commissioners breaking up street to restore same with all convenient speed.

252. When the pavement or surface of any public street, or when any sewer or drain, shall be opened or broken up by the Commissioners, they shall, with all convenient speed, complete the work on account of which the same shall have been broken up, and fill in the ground, and make good the pavement and surface, and the sewer or drain so opened or broken up, and carry away the rubbish occasioned thereby; and shall in the meantime cause the place where such pavement or surface shall be so opened or broken up to be fenced and guarded and sufficiently lighted during the night.

Situation of gas and water-pipes may be altered by Commissioners.

253. If the Commissioners deem it necessary for the purposes of this Act to raise, sink or otherwise alter the situation of any water-pipe or gas-pipe, or other water-works or gas-works laid in any street (public or otherwise), they may, from time to time, by notice in writing, require the person to whom any such pipes or works belong, or under whose control they may be, to cause forthwith, or as soon as conveniently may be, any such pipes or works to be raised, sunk or otherwise altered in position in such manner as the Commissioners direct.

Alteration not to permanently injure works, and to be done at Commissioners' expense.

Such alteration shall not be such as permanently to injure such works, or to prevent the water or gas from flowing as freely and conveniently as before; and the expenses attending such raising, sinking or altering, and full compensation for the damage done thereby, shall be paid by the Commissioners, as well to the persons to whom such pipes or works belong as to all other persons.

Settlement of disputes.

And if any dispute shall arise touching the amount or apportionment of such compensation, the same shall be settled in the manner hereinafter provided for the settlement of disputes respecting damages and expenses.

If owner, &c., neglect to make alterations, Commissioners may cause same to be made.

254. If the person to whom any such pipes or works as are mentioned in the last preceding section belong, or under whose control they may be, do not proceed forthwith, or as soon as conveniently may be after the receipt of the notice mentioned in the last preceding section, to cause the same to be raised, sunk or altered in such manner as the Commissioners require, the Commissioners may themselves cause such pipes or works to be raised, sunk or altered as they may think fit, provided that such works be not permanently injured thereby, or the water or gas prevented from flowing as freely and conveniently as before.

Commissioners may set apart bathing-places, &c.

255. The Commissioners may, at their discretion, set apart any public ghát or place (not being private property, or part of the river or river-bank of the port of Calcutta) for the purpose of being used as a bathing-place;

provide or set apart a sufficient number of convenient tanks, or runs of water, for the inhabitants to bathe in;

and set apart tanks or reservoirs, or runs of water, for washing animals or clothes, or for any other purpose connected with the health, cleanliness and comfort of the inhabitants.

256. Whoever bathes in any public place, except the places provided or set apart under the last preceding section, shall be liable to a fine not exceeding fifty rupees. Penalty.

257. When any private tank or low marshy ground, or any waste or stagnant water, being within any private enclosure, appears to the Commissioners to be injurious to health or to be offensive to the neighbourhood, the Commissioners may require, by notice in writing, the owner of the same to cleanse or fill up such tank or marshy ground, or to drain-off or remove such stagnant water; and if he shall refuse or neglect to comply with such requisition during one month from the service thereof, the Commissioners, their officers and workmen may enter into the said premises and do all necessary acts for all or any of the purposes aforesaid as they shall think fit; Power to fill up unwholesome tanks, &c., on private premises.

and the expenses thereby incurred shall be paid by the owner.

258. Whoever, being an owner of land, fails to comply with the requisition mentioned in the last preceding section shall be liable to a fine not exceeding two hundred rupees, and to a further fine, not exceeding fifty rupees, for each day during which the offence is continued after he has been convicted of such offence. Penalty.

259. The Commissioners may from time to time, as they shall think fit, drain-off into any sewers belonging to them, and cleanse or fill up any stagnant pool, ditch, tank, pond or other receptacle of water (the same not being within any private enclosure) which shall appear to them to be useless or unnecessary, or likely to prove injurious to the health of the inhabitants, whether the same be the private property of any person or otherwise; and the Commissioners, their officers and workmen may do all necessary acts for effecting any of the purposes aforesaid. Power to drain-off and cleanse unwholesome tanks, &c., on private premises.

260. The Commissioners, in executing any works under this Act, shall provide and make, at their own expense, a sufficient number of convenient ways, water-courses, drains and channels in the place of such as may be interrupted, injured or rendered useless by reason of the execution of such works; Commissioners in executing works to provide proper drains, &c.

and if any difference arises between the Commissioners and the persons affected thereby, such difference shall be settled in the manner hereinafter provided for the settlement of disputes respecting damages and expenses.

261. The Commissioners shall, during the construction or repair by them Bars to be

erected across streets during repairs, and lights placed at night.

of any of the streets, sewers or drains vested in or belonging to them, take proper precaution for guarding against accident, by shoring up and protecting the adjoining houses;

and shall cause such bars, chains or posts to be fixed across or in any street (public or otherwise), to prevent the passage of carriages, carts, cattle or animals, while such works are carried on, as to them shall seem proper;

and shall cause any sewer or drain, or other works in streets (public or otherwise), during the construction or repair thereof by them, to be sufficiently lighted and guarded during the night.

Dangerous places near streets to be repaired or enclosed.

262. If any building, tank, well or hole, or other place be, for want of sufficient repair, protection or enclosure, dangerous to passengers or to persons living in the neighbourhood, the Commissioners may, by notice in writing, require the owner of the land to repair, protect or enclose the same; and if he fails to comply with such requisition during eight days from the service thereof, the Commissioners shall cause the same to be repaired, protected or enclosed, so as to prevent danger therefrom;

and the expenses thereby incurred shall be paid by the owner of the property so repaired, protected or enclosed.

Penalty.

263. Whoever, being an owner of land, fails to comply with the requisition mentioned in the last preceding section, shall be liable to a fine not exceeding two hundred rupees, and to a further fine, not exceeding fifty rupees, for each day during which the offence is continued after he has been convicted of such offence.

PART IV.—*Of Building Regulations.*

Houses may be set forward for improving lines of public streets.

264. The Commissioners may, upon such terms as they shall think fit, allow any house to be set forward for improving the line of any public street in which such house is situated.

Houses projecting beyond line of street, when taken down, to be set back.

265. When any house, any part of which projects beyond the regular line of a public street, or beyond the front of the house on either side thereof, has been taken down in order to be rebuilt or altered, the Commissioners may require the same to be set back to, or towards, the line of the street or the line of the adjoining houses:

Provided that the Commissioners shall make full compensation to the owner of any such house for any damage he may thereby sustain; and if any dispute shall arise touching the amount of such compensation, the same shall be settled in the manner hereinafter provided for the settlement of disputes respecting damages and expenses.

House in ruinous and

266. If any house or wall, or anything affixed thereon, be deemed by the Commissioners to be in a ruinous state, or likely to fall, or in any way

dangerous to the inhabitants of such house or to the neighbouring houses, or to the occupiers thereof, or to passengers, they shall immediately, if it appears to them to be necessary, cause a proper hoard or fence to be put up for the protection of passengers, and shall cause notice in writing to be given to the owner, if he be known and resident within the limits of their jurisdiction, and shall also cause such notice to be put on the door or other conspicuous part of such house, or otherwise to be given to the occupier thereof (if any), requiring such owner or occupier forthwith to take down, repair or secure, such house, wall or thing affixed thereon, as the case shall require.

dangerous state.

If such owner or occupier do not begin to take down, repair or secure the same within three days after such notice, and complete such work with due diligence, the Commissioners shall cause all or so much of such house, wall or thing as they shall think necessary, to be taken down, repaired or otherwise secured;

If owner does not take house down, Commissioners may do so.

and the expenses thereby incurred shall be paid by the owner.

267. If any such house or wall as is mentioned in the last preceding section, or any part of the same, be taken down as in such section mentioned, the Commissioners may sell the materials thereof, or so much of the same as shall be taken down, and apply the proceeds of such sale in payment of the expenses incurred, and shall restore any surplus arising from such sale to the owner of such house or wall on demand.

Sale of materials of ruinous houses.

The Commissioners shall have the same remedies for compelling the payment of so much of the said expenses as may remain due after the application of the proceeds of such sale as by this Act are given to them for compelling the payment of the whole of the said expenses.

268. Before beginning, within the town, to build or rebuild any house, the person intending to build or rebuild such house shall give to the Commissioners notice thereof in writing, and shall accompany such notice with a plan, shewing the levels and width at which the foundation and lowest floor of such house are proposed to be laid, by reference to some level ascertained under the direction of the Commissioners.

Notice of new buildings to be given to Commissioners.

269. Within fourteen days after receiving such notice as is mentioned in the last preceding section, the Commissioners shall signify their approval of the proposed levels and width of foundation, or, if they disapprove thereof, they shall fix other levels and width of foundation in lieu thereof within the same time.

Commissioners to signify disapproval within fourteen days.

270. If such building as is mentioned in section 268 be begun or made without sending such notice and plan as are mentioned in the said section, or at any levels different from those fixed by the Commissioners within the said fourteen days, or in any other respect contrary to the provisions of this Act, the Commissioners may, if necessary, cause such building, to be altered or demolished as the case may require;

Houses built without notice, or contrary to provisions of Act, may be altered by Commissioners.

and the expenses thereby incurred shall be paid by the person failing to comply with the provisions aforesaid.

If Commissioners fail to signify approval, &c., within fourteen days, parties may proceed without.

271. If the Commissioners fail to signify in writing their approval or disapproval of the levels and width of foundation shewn on such plan as is mentioned in the last preceding section, and to fix other levels and width of foundation within fourteen days after receiving such notice and plan as aforesaid, the person giving such notice may, notwithstanding anything hereinbefore contained, proceed to build or rebuild the house therein referred to according to the levels and width of foundation shewn on such plan:

Provided that such building or rebuilding be otherwise in accordance with this Act.

The word "house" in this and the three last preceding sections does not include a hut.

Hoards to be set-up during repairs.

272. Every person intending to build or take down any house, or to alter or repair the outward part of any house, where any public street will be obstructed or rendered inconvenient by means of such work shall, before beginning the same, cause sufficient hoards or fences to be put up, in order to separate the house where such works are being carried on from the street, and shall keep such hoard or fence standing and in good condition, to the satisfaction of the Commissioners, during such time as the public safety or convenience requires, and shall cause the same to be sufficiently lighted during the night:

Provided that no person shall put up a hoard or fence without the written permission of the Commissioners, and shall not keep up the said hoard or fence for a time longer than allowed in the said written permission.[a]

Penalty.

273. Every person who begins to build or to take down, or alter or repair, any house contrary to the provisions of the last preceding section, or who, without license, erects or sets up any hoard, scaffolding or fence whatsoever, or who, being licensed, fails to put up such fence or hoard, or to continue the same standing, or to maintain the same in good condition, or who does not, while the said hoards or fences are standing, keep the same sufficiently lighted during the night, or who does not remove the same when directed by the Commissioners within eight days, shall be liable to a fine not exceeding fifty rupees for every such offence, and a further fine, not exceeding twenty rupees, for each day during which the offence is continued after he has been convicted of such offence.

House over sewers, &c., not to be erected without consent of Commissioners.

274. No house shall be newly erected over any sewer or drain belonging to the Commissioners without their written consent;

and if any house be so erected, the Commissioners may cause such house to be pulled down or otherwise dealt with as they may think fit;

[a] See section 360, *infra*.

and the expenses thereby incurred shall be paid by the person so erecting the house.

Level of houses hereafter built within town.

275. No house shall be built within the town upon a lower level than will allow of the drainage of such house or building being led into some public sewer then existing or projected, or into some tidal river or other place into which the Commissioners are empowered to empty their sewers.

Houses hereafter built to have drains constructed under orders of Commissioners.

276. If any house newly erected or rebuilt within the town have such means of drainage as in the last preceding section mentioned existing within one hundred feet thereof, the owner shall make a drain leading thereunto from the site of such house, of such materials, of such size, at such level and with such fall, as the Commissioners may direct;

and if he neglect to do so within a reasonable time, the Commissioners may cause the same to be done, and the expenses thereby incurred shall be paid by the owner.

Erection of new huts under control of Commissioners.

277. It shall not be lawful for any person to erect a hut, or any range or block of huts or sheds, or to add any hut or shed to any range or block already existing at the commencement of this Act, without previous notice to the Commissioners, and the Commissioners may require such huts or sheds to be built so that they may stand in regular lines, with a free passage or way in front of and between every two lines, of such width as they may think proper for ventilation and to facilitate scavengering, and with such number of privies and with such means of drainage as to them may seem necessary, and at such a level as will admit of such drainage, and with a plinth at least two feet above the level of the nearest public street.

Power to direct removal of huts built without notice.

278. If any such huts or sheds be built without giving such notice to the Commissioners, or otherwise than as required by the Commissioners, the Commissioners may give notice to the owner or occupier thereof, by affixing a notice to some conspicuous part of some one of such huts or sheds, to take down and remove the same within one month, or to effect such alterations as they may deem necessary; and it shall be lawful for the Commissioners, if they shall think fit so to do, to cause the same to be taken down and removed; and the expense incurred thereby shall be paid by the said owner or occupier thereof, and shall be recoverable as hereinafter provided.

Penalty.

279. Whoever erects a hut, or any range or block of huts, or shed, or adds to any hut or shed, or to any range or block already existing, contrary to the provisions of section 277, shall be liable to a fine not exceeding one hundred rupees for every such offence, and to a further fine, not exceeding twenty rupees, for each day during which the offence is continued after he has been convicted of such offence.

PART V.—*Of Sanitary Measures with regard to Blocks of Huts.*

Power of Commissioners as to inspection of huts.

280. Whenever the Commissioners in meeting, other than an ordinary meeting, are satisfied, from inspection, or by report of competent persons, that any existing block of huts in the town is, by reason of the manner in which the huts are constructed or crowded together, or of the want of drainage and the impracticability of scavengering, attended with risk of disease to the inhabitants or the neighbourhood, they may cause the locality to be inspected by two medical officers, who shall make a report in writing on the sanitary condition of the said block of huts, and shall specify, if necessary, in the said report the huts which should be removed, the roads, drains and sewers which should be constructed, and the low lands which should be filled up, with a view to the removal of the said risk of disease.

On receipt of report, Commissioners may cause notice to be served.

281. On receipt of the said report, the Commissioners in meeting, other than an ordinary meeting, may cause a notice to be served upon the owners or occupiers of the huts, or, at the option of the Commissioners, the owner of the land on which such huts are built, requiring them to carry out and execute within a reasonable time, to be fixed by the Commissioners for such purpose, all or any of the works specified in the aforesaid report, or any portion thereof respectively.

Commissioners may carry out works if owners or occupiers refuse.

282. If, after the service of the said notice, such owners or occupiers, or the owner of the land, shall refuse or neglect to carry out and execute the said works within the time appointed, the Commissioners may cause all or any of the said works, or any portion thereof respectively, to be executed;

and the expenses thereby incurred shall be paid by the owner of the land:

Expenses may be recovered by instalments or remitted in case of poverty.

Provided that the Commissioners in meeting, other than an ordinary meeting, may order the expenses so incurred to be recovered by instalments from the said owner, or, if it should appear to them that the said owner is unable by reason of poverty to pay the same, may order the same or any portion thereof to be paid out of the municipal fund.

Sale of huts.

283. If any of the said huts be pulled down, the Commissioners shall cause the materials of each hut to be sold separately, if such sale can be effected, and the proceeds shall be paid to the owner of the hut; or if the owner be unknown, or the title disputed, shall be held in deposit by the Commissioners until the person interested therein shall obtain the order of a competent Court for the payment of the same.

The Court of Small Causes shall be deemed a competent Court for that purpose.

If Commissioners fail to act, Local

284. In case the Commissioners should omit to take any action under sections 280 or 281, or in the opinion of the Local Government should fail

to give effect to the provisions thereof, the Local Government may cause any block of huts to be inspected by the Sanitary Commissioner for Bengal, who shall make a report in writing to the Local Government on the sanitary condition of the locality; and, in the event of his reporting that the sanitary condition of the locality is such as to be attended with risk of disease to the inhabitants or the neighbourhood, shall specify the huts which should be removed, the roads, drains and sewers which should be constructed, and the low lands which should be filled up, with a view to the removal of the said risk of disease.

Government may take steps.

285. On receipt of the said report, the Local Government may order the Commissioners to serve a notice on the owners or occupiers of the huts, or on the owner of the land on which such huts are built, requiring them to carry out and execute within a reasonable time, to be fixed by the Local Government for such purpose, all or any of the works specified in the said report or any portion thereof respectively; and upon service of the said notice, the Commissioners may proceed as provided in section 282, and shall be liable to all or any of the obligations imposed upon them by section 283.

On receipt of report, Local Government may order Commissioners to serve notice on owners.

286. If the Commissioners make default in carrying out the said order of the Local Government, the Local Government may appoint some officer to perform the same, and such officer may exercise such of the powers conferred upon the Commissioners by sections 281 and 282 as are necessary for the execution of the said works, and shall be liable to all or any of the obligations imposed upon the Commissioners by section 283;

If Commissioners make default in carrying out orders, Local Government may carry out.

and the expenses incurred by such officer in the execution of the said works shall be paid by the owner of the land:

Provided that the Local Government may order the expenses so incurred to be recovered by instalments from the said owner, or, if it should appear to the Local Government that the said owner is by reason of poverty unable to pay the same, may order the same or any portion thereof to be paid out of the municipal fund.

Expenses may be recovered by instalments or remitted in case of poverty.

CHAPTER XII.

Of Sanitary Matters.

PART I.—*Of Slaughter-houses, Food, Drink, Drugs and offensive Trades.*

287. No place shall be used as a slaughter-house within the town or suburbs, unless a license in writing[a] for the use thereof as a slaughter-house has

No place to be used as slaughter-

[a] See section 359, *infra*.

house without license from Commissioners.

been obtained from the Commissioners in meeting, other than an ordinary meeting, who may, at their discretion, from time to time, grant such license:

Provided that no such license be granted by the Commissioners for the use of any place situated in the suburbs as a slaughter-house without the permission in writing of the Municipal Commissioners of the suburbs, unless such place has been used as a slaughter-house before the commencement of this Act; and provided further that all fees levied by the Commissioners for licenses to use places situated in the suburbs as slaughter-houses be paid by the Commissioners to the Municipal Commissioners of the suburbs.

Commissioners to provide places for slaughter-houses.

288. The Commissioners in meeting, other than an ordinary meeting, may from time to time, if they shall think fit, provide places within or without the town for the purpose of being used as slaughter-houses; and all places within or without the town heretofore provided by the Commissioners for the purpose of being used as slaughter-houses shall be deemed to have been provided under this section:

Provided that the Commissioners shall annually pay one thousand rupees to the Municipal Commissioners of the suburbs by way of license-fee for the slaughter-house established by the Commissioners at Tengrá.

Markets, slaughter-houses, &c., to be properly drained.

289. Every owner or occupier, or farmer, of any place for the sale of meat, poultry, fish or vegetables, or of any slaughter-house within the town, shall cause such drains to be made therein as shall be considered sufficient by the Commissioners, and (if required so to do by the Commissioners) shall cause all the floors and drains to be paved with stone or burnt brick, and shall also cause a supply of water to be provided sufficient for keeping such place or slaughter-house in a clean and wholesome state.

Penalty.

290. If such owner, occupier or farmer, after notice in writing given to him by the Commissioners that such market or slaughter-house is defective in any of the said particulars, and requiring him to remedy the defect specified within not less than thirty days, makes default therein, he shall be liable to a fine not exceeding fifty rupees for every day during which such default is continued.

Sale of unwholesome food or drink.

291. Any Justice of the Peace, on the application of the Commissioners or any of their officers, setting forth that there is just cause to believe that any article which has been rendered or has become noxious or unfit for use as food or drink for man is in the possession of any person for the purpose of being sold, or offered or exposed for sale, may grant a warrant to enter upon the premises of such person and to search for and seize such article;

and if it appear to the said Justice of the Peace that the same is noxious

or unfit for such use, he shall order it to be forfeited and disposed of in such way as to him shall seem proper.

Power to Commissioners to enter and inspect markets, shops &c., and to seize unwholesome articles exposed for sale.

292. The Commissioners, or any person authorized by them in that behalf, may, at all reasonable times, enter into and inspect any market, building, shop, stall or place used for the sale of meat, poultry, fish, vegetables, corn, bread, flour, wine, spirits or other food or drink, or as a slaughter-house, and may examine any of the aforesaid articles of food or drink which may be therein; and in case any of the aforesaid articles of food or drink appear to be intended for the food or drink of man, and to be unfit for such food or drink, may seize the same;

and if it appear to a Justice of the Peace that any of the aforesaid articles of food or drink is unfit for the food or drink of man, he shall order the same to be destroyed, or to be so disposed of as to prevent its being exposed for sale or used for such food.

Suspension or revocation of license, &c.

293. Any Justice of the Peace before whom any person is convicted of an offence contrary to the provisions of this Act relating to slaughter-houses, or of the non-observance of any of the bye-laws relating thereto made under this Act, in addition to the fine which may be imposed on such person under this Act, may suspend, for any period not exceeding two months, the license granted to him under section 287;

and the Commissioners, upon the conviction of any person for a second or other subsequent like offence, may cancel his license.

Penalty for using slaughter-houses during suspension or revocation of license.

294. Whoever, during the period for which any such license is suspended, or after the same is cancelled as aforesaid, slaughters cattle, or allows cattle to be slaughtered, in the slaughter-house to which such license relates, shall be liable to a fine not exceeding one hundred rupees, and to a further fine, not exceeding fifty rupees, for each day during which the offence is continued after he has been convicted of such offence.

No place to be kept for sale of drugs unless registered.

295. No place shall be kept for the sale of drugs, unless the same shall have been registered in the office of the Commissioners.

Any keeper of such place failing to register the same within two months after the commencement of this Act, shall be liable to a fine not exceeding fifty rupees.

Inspection of drugs.

296. The Commissioners, or any person authorized by them in that behalf, may, at all reasonable times, enter into and inspect any place kept for the sale of drugs, or in which drugs are sold; and if they have reason to suspect that any drug in the said place is adulterated in such a manner as to lessen its efficacy, to change its operation or to render it noxious, may remove the same on giving a receipt specifying the nature and quantity of the drug removed, and its approximate value;

and if it appear to a Justice of the Peace that the said drug removed as aforesaid is adulterated as aforesaid, he may order the same to be destroyed or to be so disposed of as to him may seem fit;

Compensation if drug not adulterated.

If it shall appear to the said Justice that the drug so removed is not adulterated as aforesaid, the person from whose shop or place it has been taken shall be entitled to have it restored to him, and it shall be in the discretion of the said Justice to award him such compensation as he may think proper, not exceeding the actual loss which has been sustained.

If the drug removed as aforesaid is not brought before a Justice of the Peace, it shall be restored to the person from whose shop or place it was taken, and such person shall be entitled to compensation for any actual loss which he may have sustained by the removal of the said drug, and any dispute which may arise touching the amount of compensation to be given shall be settled in the manner hereinafter provided for the settlement of disputes respecting damages and expenses.

Certain offensive and dangerous trades carried on within town to be registered.

297. The owner or occupier of every place within the town used for any of the following purposes, namely—

(*a*) melting tallow;

(*b*) boiling offal or blood;

(*c*) as a soap-house;

(*d*) oil-boiling house;

(*e*) dyeing-house;

(*f*) tannery;

(*g*) brick, pottery or lime-kiln;

(*h*) sago-manufactory;

(*i*) manufactory or place of business from which offensive or unwholesome smells arise;

(*j*) or as a yard or depôt for hay, straw, wood or coal;

shall register the same at the office of the Commissioners in a book to be kept by them for that purpose.

No such trades allowed without license.

298. No place shall be newly used within the town for any of the purposes mentioned in the last preceding section except under a license from the Commissioners, who may, at their discretion, from time to time grant such license.

Penalty.

299. Whoever, without a license, uses any such place for any such purpose, shall be liable to a fine not exceeding five hundred rupees, and to a further fine, not exceeding fifty rupees, for each day during which the said offence is continued after he has been convicted of such offence.

Power to order use of slaughter-houses and carrying on of

300. If it be shewn to the satisfaction of the Commissioners that any place licensed under section 287 or 298, or registered under section 297, is a nuisance to the neighbourhood, they may give notice to the occupier to

discontinue the use of such place within one month after the date of such notice. offensive trades to be discontinued.

301. Whoever, after the expiration of such time, uses such place, or permits it to be used, in such a manner as to be a nuisance to the neighbourhood, shall be liable to a fine not exceeding two hundred rupees, and to a further fine, not exceeding one hundred rupees, for each day during which the offence is continued after he has been convicted of such offence. Penalty.

PART II.—*Of Burial and Burning Grounds.*

302. The Commissioners may, if they think fit, cause a survey and measurement to be made of every burial and burning ground, and every place used as such; and every burial and burning ground, and every place used as such, shall be registered by the owner or the person having the control thereof, or, if there be no owner or person authorized to control the same, by order of the Commissioners, in a book to be kept by them for that purpose. Burial and burning grounds to be registered.

303. Whoever uses any such place as is mentioned in the last preceding section without the same being registered, shall be liable to a fine not exceeding one hundred rupees, and to a further fine, not exceeding seventy rupees, for each day during which the offence is continued after he has been convicted of such offence. Penalty.

304. Whoever knowingly buries or burns, or causes, procures or suffers to be buried or burned, any corpse in or on any ground not registered as a burial or burning ground, shall be liable to a fine not exceeding one hundred rupees. Penalty.

305. No vault or grave shall be made within the walls of, or underneath, any church, chapel or other place of public worship, and no burial or burning ground, whether public or private, shall be opened, made or formed, otherwise than by, or under the authority of, the Local Government, without a license describing the extent and boundaries thereof previously obtained from the Commissioners in meeting, other than an ordinary meeting, who may at their discretion, from time to time, grant such license. No vault or burial or burning place henceforth to be constructed without leave of Commissioners.

306. Whosoever shall bury or burn, or cause, permit or suffer to be buried or burned, any corpse in any vault, grave or burial or burning ground opened, made or formed without such license, or contrary to the terms thereof, shall be liable to a fine not exceeding five hundred rupees. Penalty.

307. If the Commissioners in meeting, other than an ordinary meeting, with the sanction of the Local Government, shall certify, in manner hereinafter provided, that any burial-ground or place of burial, or that any place used for the burning of corpses, is in such a state as to be dangerous to the health of persons living in the neighbourhood thereof; Prohibition of use of burial and burning places certified to be unfit.

or that any church or other place of public worship is dangerous to the health of persons frequenting the same, by reason of the state of the vaults or graves within the walls of, or underneath, the same, or in any churchyard or burial-ground adjacent thereto;

and shall also certify that a fitting place for interment or burning (as the case may be) exists within a convenient distance and is available, no person shall, after a time (not less that two months) to be named in such certificate, bury or burn, or permit or suffer to be buried or burnt, any corpse in, upon, within or under, the ground, church or place of worship to which the certificate relates, except in so far as may be allowed by such certificate.

Every such certificate shall be published in the *Calcutta Gazette*, and a translation thereof in Bengálí shall, in the case of a burial or burning ground, be affixed conspicuously on some part of the said ground.

Penalty.

308. Whoever, after due publication of such certificate, buries or burns, or causes, permits or suffers to be buried or burned, any corpse contrary to the last preceding section, shall be liable to a fine not exceeding two hundred rupees.

Commissioners may in certain cases permit interment in churches, &c.

309. Notwithstanding any certificate under section 307, where, by usage or otherwise, there is any right of interment in or under any church or chapel, or in any vault of such church or chapel, or of any churchyard, burial-ground or place of burial affected by such certificate, or where any exclusive right of interment, or any exclusive right to ground for the purpose of interment, has been purchased or acquired, the Commissioners may, if, on application made to them, they are satisfied that the exercise of such right or the use of such ground will not be injurious to health, grant a license for such exercise or use during such time, and subject to such conditions and restrictions, as they may think fit.

Commissioners may provide burial or burning grounds.

310. The Commissioners in meeting, other than an ordinary meeting, may from time to time, out of the municipal fund, with the sanction of the Local Government, provide fitting places to be used as burial or burning grounds.

CHAPTER XIII.

Of Markets.

Power to Commissioners to construct markets.

311. The Commissioners in meeting, other than an ordinary meeting, may from time to time, if they shall think fit, with the sanction of the Local Government, provide places within the town for the purpose of being used as municipal markets, and the Commissioners may charge such rents, tolls and fees as to them may seem fit for the use of, or right to expose goods for sale in, such markets, and for the use of shops, stalls and standings therein.

Recovery of fees.

312. All such rents, tolls and fees which shall be imposed shall be recoverable by the Commissioners from the persons liable to pay the same as if the amounts payable in respect thereof were rates due to the Commissioners from such persons under the provisions of chapter VI.

Power to Commissioners to acquire land for markets;

313. The Commissioners in meeting, other than an ordinary meeting, may from time to time, if they shall think fit, with the sanction of the Local Government, acquire land by purchase, lease or otherwise, in order to provide places within the town for the purpose of being used as municipal markets, and for the like purpose may purchase or take on lease any land now used within such limits as a market, or registered as such, upon such terms, or subject to such conditions, as they may consider necessary, and may appropriate any land now vested in, or belonging to, them, and may set out the whole or such parts thereof as they may think necessary, for the purposes of such municipal markets, and thereupon from time to time may build and maintain such municipal markets and such stalls, sheds, pens and other buildings or conveniences for the use of the persons frequenting such municipal markets, and for the weighing and measuring goods sold in such municipal markets, and on such land as aforesaid, or on other land purchased for that purpose, and may make and maintain all such roads and approaches thereto as they may think necessary, and from time to time, in addition to the bye-laws provided in chapter XVI, make such bye-laws as they may think fit for all or any of the following purposes :—

and to make bye-laws.

(*a*) for regulating the control and use of such markets, and the buildings, stalls, pens and standings therein, and for preventing nuisances or obstructions therein, or in the immediate approaches thereto ;

(*b*) for preventing the use therein of false or defective weights, scales or measures ;

(*c*) for preventing the sale, or exposure for sale, therein, of unwholesome meat, fish or provisions ;

(*d*) for the establishment and publication of a price-current, and for prescribing the mode of sale of articles, whether by measure, weight, tale or piece ;

(*e*) for keeping such markets in a cleanly and proper state, and for removing filth and refuse therefrom.

Power to expel persons breaking regulations.

314. The Commissioners may expel from any such municipal market any person who, or whose servants, may be convicted of disobeying any bye-law made under the last preceding section, and may prevent such person, by himself or his servants, further carrying on any trade or business in such market, or occupying any stall or shop therein, and may determine any lease or tenure which such person may have in any such stall or shop.

Power to Commissioners to sell or let markets.

315. The Commissioners in meeting, other than an ordinary meeting, may sell or let to tenants on lease, or otherwise, on such terms as they may think fit, any municipal market, or any part thereof, and may do all things necessary for carrying the provisions of this section into effect.

Power to Commissioners to close markets, or to sell or let land formerly used as markets.

316. The Commissioners in meeting, other than an ordinary meeting, may close any municipal market, or any part thereof, or sell, or let out to tenants, on lease or otherwise, any land heretofore used as a municipal market, or any part thereof, on such terms as they may think fit, and may do all things necessary for carrying the provisions of this section into effect.

Power to Commissioners to carry on markets.

317. The Commissioners in meeting, other than an ordinary meeting, may, out of the municipal fund and out of the monies borrowed under the provisions of this Act, and out of monies derived from the rents of buildings, stalls, pens or standings in any municipal market, and from any fees realized from any municipal market, expend such sums of money as they may think necessary for the construction, maintenance and keeping such municipal market in repair, and for any other purpose or purposes which the Commissioners may deem necessary for establishing or carrying on the same, or conducive thereto.

Power to grant licenses for markets.

318. It shall be within the discretion of the Commissioners in meeting, other than an ordinary meeting, to grant licenses for the use of any place as a market for the sale of meat, fish, fruit and vegetables within the town, and

Duration of licenses.

every such license shall be in force until the first day of January next ensuing the day therein named for the commencement thereof.

Nothing contained in this section shall be held to impose upon any person the obligation of taking out a license for a market which has been registered under section 6 of Bengal Act VIII of 1871.[a]

Penalty for permitting unauthorized places to be used as markets.

319. Whoever wilfully or negligently permits any place within the town (not being a market which has been registered under section 6 of Bengal Act VIII of 1871) to be used as a market for the sale of meat, fish, fruit or vegetables, without a license under this Act, shall be liable to a fine not exceeding two hundred rupees, and to a further fine, not exceeding fifty rupees, for each day during which the said offence shall be continued after he has been convicted of such offence.

Power to close unlicensed place.

320. Whenever three convictions under the provisions of the last preceding section shall have been pronounced in respect of the same place within the space of one year, it shall be lawful for any Police Magistrate of Calcutta, on the application of the Commissioners, to order such place to be closed, and thereupon to appoint persons, or otherwise take order, to prevent such place

[a] Repealed by this Act.

being so used; and every person who shall sell or expose for sale meat, fish, fruit or vegetables in any place which shall have been so closed, shall be liable to a fine not exceeding ten rupees.

Commissioners may define ways in bázárs.

321. The Commissioners in meeting, other than an ordinary meeting, may define, fix and determine what portions of any market or bázár within the town shall be thrown into, and made part of, the existing approaches, roads, paths and ways in such market or bázár for the convenient use of persons resorting thereto; and shall signify the same by affixing, or causing to be affixed, in some conspicuous place or places in the market or bázár, a notice signifying the limits and description of the parts of the said market or bázár so to be kept and used as part of the approaches, roads, paths and ways.

Commissioners may require works to be executed.

The Commissioners in meeting, other than an ordinary meeting, may, by notice in writing to the owner, proprietor or lessee of any such market or bázár, require him, within a time to be specified therein, to execute the necessary works and take all necessary measures for the setting out, clearing, widening and maintaining of the said approaches, roads, paths and ways;

and may, in case of such default by their servants and workmen, enter into and upon the said market or bázár, and clear, set out and widen the said approaches, roads, paths and ways, and the expenses thereby incurred shall be paid by the person on whom the notice has been served.

Commissioners may alter approaches.

The Commissioners in meeting, other than an ordinary meeting, may from time to time vary and alter the said approaches, roads, paths and ways as occasion may require, signifying the same by a like notice.

Penalty.

Whoever shall, after such notification, cause any obstruction or encroachment in or on any such approaches, roads, paths or ways, shall be liable to a fine not exceeding fifty rupees, and to a further fine, not exceeding ten rupees for every day such obstruction or encroachment is continued after notice from the Commissioners to remove or discontinue the same.

Minimum of penalties.

322. Whenever any person who shall have been convicted of any offence under this chapter, or against any of the bye-laws made or to be made under this chapter, in respect to markets, shall again be convicted of an offence against the same provision, the fine to be inflicted for the first of such subsequent offences shall not be less than one moiety of the maximum fine provided for such offence; and for the second and every subsequent offence shall not be less than such maximum fine.

CHAPTER XIV.

Of the General Powers of the Commissioners.

Part I.—*Of Rights of Entry.*

Power to enter

323. The Commissioners shall, for the purposes of this Act, have power,

upon houses and land for purposes of Act.

by themselves or their officers, between sunrise and sunset, to enter upon any house or land, as well for the purpose of making any inspection, survey or measurement, as for the purpose of executing any work authorized by this Act to be executed by them, without being liable to any legal proceedings or molestation whatsoever on account of such entry, or of anything done on such house or land in pursuance of this Act :

Provided that, except as herein otherwise provided, the Commissioners or their officers shall not enter upon any house or land which may be occupied at the time, unless with the consent of the occupier thereof, without previously giving the said occupier twenty-four hours' notice of their intention to do so.

Power to Commissioners to enter on lands adjacent to works.

324. The Commissioners, or their officers or servants, may enter upon the land of any person adjoining to, or being within the distance of one hundred yards of, any works by this Act authorized to be made, for the purpose of depositing upon such land any soil, gravel, sand, lime, brick, stone or other materials, or for any other purposes connected with the formation of the said works, without making any previous payment, tender or deposit, doing as little damage as may be in the exercise of the several powers hereby granted to them, and making compensation for such temporary occupation of, or temporary damage to, the said land to the owner and occupier thereof from time to time, and as often as any such temporary occupation shall be taken, or such temporary damage done, and making compensation to the owner also for the permanent injury (if any) to such land;

and if any dispute shall arise touching the amount or apportionment of such compensation, the same shall be settled in the manner hereinafter provided for the settlement of disputes respecting damages and expenses :

Provided that, before the Commissioners make any such temporary use as aforesaid of any land adjoining or lying near to the said works, they shall give three days' notice of such their intention to the owner and occupier of such land, and shall set apart, by sufficient fences, so much of the land as shall be required to be used as aforesaid from the other land adjoining thereto.

Powers to be exercised by Commissioners when constructing drains and aqueducts without town.

325. For the purpose of laying pipes or constructing aqueducts for bringing water into the town from any place without the limits thereof, or for the purpose of making sewers or drains to communicate with, or empty themselves into, any public sewer, lake, stream, canal or watercourse without the said limits, the Commissioners, their officers and servants may, whenever a plan for laying down any such pipes, or constructing any such aqueduct, sewer or drain, shall have been approved by the Local Government, exercise, in the laying of such pipes and construction of such aqueduct, sewer or drain throughout the line of country through which the said pipes, aqueduct, sewer or drain are to run, all the powers which by this Act they may exercise within

the town, and which may be necessary for the laying of such pipes, or the construction of such aqueduct, sewer or drain, without being subject to any action or molestation whatever for so doing;

and the Magistrate of any district through which the said pipes, aqueduct, sewer or drain are to run, may exercise in respect thereof the like powers and jurisdiction within the limits of his own district as a Justice of the Peace may under this Act exercise in respect of any work to be executed by the Commissioners within the town.

Penalty for obstructing persons employed by Commissioners in their duty.

326. Whoever at any time obstructs or molests any person employed by the Commissioners (not being a public servant within the meaning of section 21 of the Indian Penal Code), or any person with whom they may have contracted under the provisions of this Act, in the performance and execution of their or his duty, or of anything which they are respectively empowered or required to do by virtue or in consequence of this Act; or removes any mark set up for the purpose of indicating any level or direction necessary to the execution of works authorized by this Act, shall be liable to a fine not exceeding two hundred rupees, or, in the discretion of the Justice of the Peace before whom he is convicted, to imprisonment for any term not exceeding two months.

PART II.—*Of the Purchase and Sale of Land.*

Commissioners may purchase, sell and lease land for purposes of Act.

327. The Commissioners in meeting, other than an ordinary meeting, may purchase land, whether within or without the town, for any of the purposes of this Act, and may sell any land vested in them and not required for the purposes of this Act, or may dispose of the same on lease; and the Commissioners may receive the rent of the same on such terms as they may think fit.

Commissioners may rent and take on lease land.

328. The Commissioners in meeting, other than an ordinary meeting, may from time to time pay rent for, or take on lease, on such terms as they may think fit, any land required for the purposes of this Act.

Land may be acquired under Land Acquisition Act.

329. Any land required for the purposes of this Act may be acquired under the provisions of the Land Acquisition Act, 1870, and on payment by the Commissioners, out of the municipal fund, of the compensation payable under such Act, the land shall vest in them for the purposes of this Act.

PART III.—*Of Railways.*

Power to construct railway.

330. The Commissioners in meeting, other than an ordinary meeting, may, upon any of the public streets in the town, or upon any land within or without the town, which is vested in the Commissioners, construct or maintain any railway which to the Commissioners may appear to be useful or necessary for the purposes of this Act,

and use and employ upon any such railway, by them heretofore constructed

or hereafter to be constructed, such locomotive engines or other moving power, and such carriages and wagons to be drawn or propelled thereby,

carry and convey upon such railway all such passengers and goods as shall be offered to them for that purpose,

and make such reasonable charges in respect thereof, as they may from time to time determine upon.

Power to permit carriages to run on railway.

331. The Commissioners in meeting, other than an ordinary meeting, from time to time may enter into any contract with any person for the passage over any railway already constructed by the Commissioners, or hereafter to be constructed by them, of the engines, wagons or other carriages of such person, upon the payment of such tolls or rent, and under such conditions and restrictions, as may be mutually agreed upon.

Power to lease railway.

332. The Commissioners in meeting, other than an ordinary meeting, may lease any railway, constructed or to be constructed by them under the provisions hereinbefore contained, to any person upon such terms and under such conditions and restrictions as may be mutually agreed upon; and every person to whom any such railway shall be so leased by the Commissioners shall, subject to such conditions and restrictions as aforesaid, have all such and the same powers of maintaining the same, and for using and employing thereupon locomotive engines and other moving power, and carriages and wagons to be drawn or propelled thereby, and for carrying and conveying thereupon passengers and goods, and making charges in respect thereof, as the Commissioners would have had if such railway had not been leased.

The Commissioners in meeting, other than an ordinary meeting, may from time to time enter into any contract with any person for the purpose of the construction of any railway within or without the town, and for the purpose of maintaining and working of the same.

Part IV.—*Of Hospitals.*

Power to support hospitals.

333. The Commissioners in meeting, other than an ordinary meeting, may apply such sum as to them may seem proper in or towards the maintenance and support of such hospitals for such purposes as they may think fit.

CHAPTER XV.

Of the Municipal Debt.

Power to Commissioners to borrow on security of rates and taxes.

334. For the construction of works of a permanent nature under this Act, the Commissioners in meeting, other than an ordinary meeting, may, with the sanction of the Local Government, from time to time borrow by way of debenture, on the security of the rates, taxes and dues imposed and levied on

account of the municipal fund, or of a portion of them, and at such rate of interest and upon such terms as to the time of repayment and otherwise as the Local Government may approve, any sums of money the Commissioners may require for the objects aforesaid.

Form of security.

335. All the debentures aforesaid issued under the authority of this Act shall be in the form contained in the seventh schedule, and shall be transferable by endorsement, and the right to sue in respect of the monies secured by any of such debentures shall be vested in the holders thereof for the time being without any preference by reason of some of such debentures being prior in date to others.

Payment of monies due on old debentures by issue of fresh debentures.

336. The Commissioners in meeting, other than an ordinary meeting, may at any time, with the sanction of the Local Government, raise, by the issue of new debentures, any money that may be required to pay any monies for the time being due on any debentures issued under the authority of this Act, or of any enactment hereby expressly repealed.

Establishment of reserve fund.

337. The Commissioners shall set aside yearly out of their annual income, before making any disbursements in respect thereof,

firstly, such sum as may be required for the payment of the interest which may fall due on any debentures issued under the authority of this Act, or of any enactment hereby expressly repealed;

secondly, a sum of not less than two per cent. on the total sum borrowed by the Commissioners for the purposes of any enactment hereby expressly repealed, exclusive of the sum now due, or of any sum which may hereafter become due, by them to the Secretary of State for India in Council, and shall appropriate the same, so far as it is required or will extend, to repay the amount (if any) of such loans or debentures issued by them as shall fall due in the course of the year.

Surplus to be invested.

And they shall invest the surplus (if any) of the said sum, after repayment as aforesaid, or in case there has not been any amount due or paid in respect of such loans or debentures during the year, then they shall invest the whole of the said sum, in Government securities, or in any securities guaranteed by Government, or in Calcutta municipal debentures, in the names of the Secretary to the Government of Bengal in the Revenue Department and the Accountant-General of Bengal respectively for the time being, to be by them held as trustees for the purpose of repaying at due date from time to time the several loans contracted or debentures issued by the Commissioners.

And all monies and securities now held by any trustees for the Commissioners for the purpose of paying off any sum borrowed by them, shall be held by them upon the trusts hereinbefore declared.

All interest accruing due to the trustees shall also from time to time be invested by them in like manner and held upon the like trust.

Appropriation of reserve fund.

338. The trustees shall from time to time, whenever any loans or debentures shall fall due by the Commissioners, realize the whole or a sufficient portion of the securities held by them as aforesaid, and appropriate the sale-proceeds thereof, so far as the same will extend, to satisfy such loans or debentures.

Account of reserve fund.

339. The trustees shall, at the end of every year, submit a statement to the Commissioners shewing the amount which has been invested during the year under section 337, and setting forth the date of the last investment made previous thereto, and also the aggregate amount of the securities then in their hands, and the aggregate amount which has up to the date thereof been paid off in respect of the said debentures and loans.

Such statement shall be laid before the Commissioners and published in the *Calcutta Gazette.*

CHAPTER XVI.

OF BYE-LAWS.

Power to make bye-laws.

340. The Commissioners may from time to time make bye-laws, not inconsistent with the provisions of this Act, to regulate—

(*a*) all matters and things connected with the supply and use of water;

(*b*) the time and places of bathing for persons of each sex in places provided or set apart for bathing purposes;

(*c*) the deposit of dirt, dust, filth and refuse of any kind whatsoever, the removing and carrying away the same, and charging the person making the deposit with the expenses of removing it;

(*d*) the duties to be performed by tola mehtars under section 244, and the boundaries within which they are to be performed;

(*e*) the management and charges for places provided for slaughter-houses under section 288;

(*f*) the inspection and management of, and conduct of, business in markets and slaughter-houses, and the keeping the same in a proper and cleanly state;

(*g*) the inspection of places used for any of the purposes mentioned in section 297, and the management and conduct of business within the same;

(*h*) the inspection and management of burial and burning grounds;

(*i*) and generally for carrying out the purposes of this Act.[a]

[a] See *Calcutta Gazette*, 31st July, 1878, Part II, p. 1023: 25th September, 1878, Part I, p. 1052.

341. The Commissioners may from time to time repeal, alter or add to, their bye-laws. And to repeal or alter them.

342. No bye-law, and no repeal or alteration of, or addition to, any bye-law shall have effect until the same has been confirmed by the Local Government. Bye-laws and alterations to be confirmed by Local Government.

343. No bye-law, and no repeal or alteration of, or addition to, any bye-law shall be confirmed until the same has been published in the English and Bengálí Government Gazettes at least three times, nor till one month has elapsed from the date of the first publication, during which period a copy of such proposed bye-law, or the repeal or alteration of, or addition to, any bye-law, shall be kept at the office of the Commissioners; and all persons may at any time between ten o'clock in the morning and five o'clock in the afternoon inspect such copy without fee. Bye-laws and alterations to be published before confirmation.

344. Every bye-law, and every repeal or alteration of, or addition to, any bye-law, when confirmed, shall be published in the English and Bengálí Government Gazettes, and a copy thereof in English and Bengálí shall be painted or placed on boards which shall be hung up in some conspicuous part of the office of the Commissioners. After confirmation, bye-laws to be published in Gazette.

345. Whoever infringes any bye-law made and confirmed under this Act shall be liable to a fine not exceeding twenty rupees, and to a further fine, not exceeding ten rupees, for each day during which the offence is continued after he has been convicted of such offence. Penalty.

CHAPTER XVII.

Of Prosecutions.

346. The Commissioners may direct any prosecution for any public nuisance whatsoever, and may order proceedings to be taken for the punishment of any person offending against any of the provisions of this Act, and for the recovery of any fines imposed under this Act, and may order the expenses of such prosecutions and proceedings to be paid out of the municipal fund: Commissioners may direct prosecutions.

Provided that nothing herein contained shall preclude any person from instituting a prosecution for nuisance, or from giving information and instituting a prosecution under the next succeeding section.

347. Every prosecution under this Act, except as provided in section 349, may be instituted before any Justice of the Peace; Prosecutions to be before Justice of the Peace.

and every fine imposed under this Act may be recovered by a summary proceeding before any Justice of the Peace upon an information exhibited by order of the Commissioners,

and in default of payment of such fine, the same may be levied under the warrant of such Justice of the Peace by distress and sale of the moveable property of the offender, with all such powers for the issuing of such warrant, and upon the return thereof, as are exercised by a Magistrate of Police under the Calcutta Police Act, 1866, or any other Act for the time being in force for regulating the Police of the town of Calcutta.

And if the fine cannot be so levied, the offender may be punished by such Justice of the Peace with rigorous or simple imprisonment, as defined in section 53 of the Indian Penal Code, for a term not exceeding two months.

Procedure on prosecution.

348. Whenever any prosecution shall be instituted before any Justice of the Peace under this Act, he may summon the person charged to appear at a time and place to be mentioned in the summons; and if such person shall not so appear, such Justice of the Peace may, upon proof of service of the summons, if no sufficient cause shall be shewn for the non-appearance of the person charged, proceed to hear and determine the case in his absence.

Such Justice of the Peace may exercise all such powers connected with the summoning and enforcement of the attendance of witnesses and the production of documents as are conferred on a Magistrate by the Calcutta Police Act, 1866, or any other Act for the time being in force for regulating the procedure of the Police Magistrates' Courts in Calcutta.

Institution of prosecution under section 41.

349. Every prosecution under section 41 shall be instituted before such Magistrate or Court as would have jurisdiction to entertain a charge of the nature described in section 161 of the Indian Penal Code.

How Justice may award fine.

350. The Justice of the Peace by whom any fine is imposed under this Act may award any portion, not being more than one-half thereof, to the informer, and shall order the remainder, or, if he make no award to the informer, the whole, of such fine to be paid to the municipal fund.

Complaint to be made within two months of offence.

351. No person shall be liable to any fine under this Act for any offence cognizable by a Justice of the Peace unless the complaint respecting such offence shall have been made before a Justice of the Peace within two months next after the commission of such offence:

Provided that the failure to take out any license under this Act shall be deemed to be a continuing offence until the expiration of the period for which such license is required to be taken out.

Person doing damage to property of Commissioners to make good same.

352. If, through any act, neglect or default on account whereof any person shall have been fined under this Act, any damage to the property of the Commissioners shall have been committed by such person, he shall be liable to make good such damage as well as to pay such fine;

and the amount of such damage shall, in case of dispute, be determined by the Justice of the Peace by whom such person has been fined;

and on default of payment of the amount of such damage on demand, the same may be levied in the same manner as a fine.

CHAPTER XVIII.

Of the Recovery of Damages and Expenses.

Damages and expenses how determined.

353. Where any damages, costs or expenses are by this Act directed to be paid, the amount and, if necessary, the apportionment of the same, in case of dispute, shall be ascertained and determined by the Court of Small Causes :

Provided that, when any work is executed by the Commissioners under this Act in default of the owner or occupier of the house or land doing such work the expenses thereby incurred may be recovered by the Commissioners as a rate under chapter VI.

Method of proceeding before Judge of Court of Small Causes.

354. In any case which is to be determined by the Court of Small Causes under this Act, the said Court may, on the application of either party, summon the other party to appear at a time and place to be named in such summons.

Upon the appearance of the parties, or, in the absence of any of them, upon proof of due service of the summons, the said Court may hear and determine such question, and, for that purpose, may examine such parties, or any of them, and their witnesses, on oath; and the costs of every such inquiry shall be in the discretion of the said Court, which shall determine the amount thereof.

Recovery of damages by distress.

355. If the amount of damages, costs or expenses ascertained in the manner above described be not paid by the party liable to pay the same within seven days after demand, such amount may be recovered, under a warrant of the said Court, by distress and sale of the moveable property of such party; and the surplus arising from the sale thereof, after satisfying such amount and the costs of the distress and sale, shall be returned on demand to the party whose property shall have been distrained.

Power of Commissioners to sue instead of realizing by distress.

356. Instead of proceeding by distress and sale, and in case of failure to realize by distress the whole or any part of any expenses, charges or damages awarded under the provisions of this Act, the Commissioners may sue the person liable to pay the same in any Court of competent jurisdiction.

CHAPTER XIX.

Miscellaneous.

Limitation of suit against Commission-

357. No suit shall be brought against the Commissioners, or any of their officers, or any person acting under their direction, for anything done under

ers or their officers.

this Act until the expiration of one month next after notice in writing has been delivered or left at the office of the Commissioners, or at the place of abode of such person, stating the cause of suit and the name and place of abode of the intending plaintiff.

Unless such notice be proved, the Court shall find for the defendant.

Every such suit shall be commenced within three months next after accrual of the right to sue, and not afterwards.

If any person to whom any such notice of suit is given shall, before the suit is brought, tender sufficient amends to the plaintiff, such plaintiff shall not recover in any such action when brought; and if no such tender shall have been made, it shall be lawful for the defendant in such action, by leave of the Court where such action shall be pending at any time before issue joined, to pay into Court such sum of money as he shall think fit, and thereupon such proceedings shall be had as in other cases where defendants are allowed to pay money into Court.

Payment out of municipal fund for damage done by Commissioners.

358. The Commissioners may make compensation out of the municipal fund to all persons sustaining any damage by reason of the exercise of any of the powers vested in the Commissioners, their officers or servants, under this Act.

Fees for licenses under section 242 or 287, and for permission given under section 210.

359. When any license is granted under section 242 or 287, authorizing the use of any place for any of the purposes therein described, and when permission is given under section 210 for putting up any projection, the Commissioners may charge a fee not exceeding one hundred rupees for such license or permission.

Daily fee for permission given under section 199.

When permission is given under section 199 to make any temporary erection, the Commissioners may charge a daily fee not exceeding one hundred rupees for such permission.

Rent chargeable for land used by permission under section 213 or 272.

360. When permission is given under section 213 or section 272, the Commissioners may charge rent for any land made use of in pursuance of such permission.

Every person to produce license if required.

361. Every person to whom a license has been granted under this Act shall, at all reasonable times while such license shall remain in force, if thereunto required by the Commissioners, or by any person authorized by them in that behalf, produce such license to the Commissioners or to the person so authorized.

Penalty.

362. Whoever fails to produce his license when required to do so as aforesaid shall be liable to a fine not exceeding fifty rupees, and to a further fine, not exceeding ten rupees, for each day during which the offence is continued after he has been convicted of such offence.

How notice, &c., may be served.

363. Every notice, bill, form, summons or notice of demand under this Act may be served personally on, or presented to, the person to whom the same is addressed,

or be left at his usual place of abode with some adult male member or servant of his family, or at his place of business with some clerk of the office,

or if it cannot be so served or presented, may be put on some conspicuous part of his place of abode,

or of his place of business,

or of the house or land in respect of which the notice, bill, form, summons or notice of demand is intended to be served.

Service of notice on owners and occupiers of houses and land.

364. Where any notice is required to be given to the owner or occupier of any house or land, such notice, addressed to the owner or occupier, as the case may require, may be served on the occupier of such house or land, or otherwise in the manner in the last preceding section mentioned:

Provided that, when the owner and his place of abode are known to the Commissioners, they shall, if such place of abode be within the limits of their authority, cause every notice required to be given to the owner of any house or land to be served on such owner or left with some adult male member or servant of his family,

and if the place of abode of the owner be not within such limits, they shall send every such notice by post in a registered cover addressed to his place of abode, and the same shall be deemed to be good service of the notice.

When the name of the owner or occupier is not known, it shall be sufficient to designate him as "the owner" or "the occupier" of the house or land in respect of which the notice is served.

Commissioners, on default of owner or occupier, may execute works and recover expenses.

365. Whenever any work is required by this Act to be executed by the owner or occupier of any house or land, and default is made in the execution of such work, the Commissioners, whether any penalty is or is not provided for such default, may cause such work to be executed;

and the expenses thereby incurred shall be paid by the person by whom such work ought to have been executed, and in default of payment thereof the same may be recovered as a rate under chapter VI.

Power to levy charges on occupier, who may deduct same from rent.

366. If the defaulter, as mentioned in the last preceding section, be the owner of any house or land, the Commissioners may, by way of additional remedy, whether any suit or proceeding has been brought or taken against any such owner or not, require the payment of all or any part of the expenses payable by the owner for the time being from the person who then, or at any time thereafter, occupies the house or land under such owner, and in default of payment thereof by such occupier on demand, the same may be recovered as a rate under chapter VI;

and every such occupier shall be entitled to deduct from the rent payable by him to the owner so much as is so paid by, or recovered from, him in respect of any such expenses.

Occupier not liable for more than amount of rent due.

367. No occupier of any house or land shall be liable to pay more money in respect of any expenses charged by this Act on the owner thereof than the amount of rent due from him for the house or land in respect of which such expenses are payable at the time of the demand made upon him, or which at any time after such demand has accrued and become payable by him, unless he neglect or refuse, upon a requisition made to him for that purpose by the Commissioners, truly to disclose the amount of his rent, and the name and address of the person to whom such rent is payable;

but nothing in this section shall affect any special contract made between any such owner or occupier respecting the payment of the expenses of any such works as aforesaid.

Occupier, on default of owner, may execute works and deduct expenses from rent.

368. Whenever default is made by the owner of any house or land in the execution of any work required to be executed by him, the occupier of such house or land may, with the approval of the Commissioners, cause such work to be executed, and the expense thereof shall be paid to him by the owner, or the amount may be deducted out of the rent from time to time becoming due from him to such owner.

Proceedings in case of tenants opposing execution of Act.

369. If the occupier of any house or land prevent the owner thereof from carrying into effect, in respect of any house or land, any of the provisions of this Act, after notice of his intention so to do has been given by the owner to such occupier, any Justice of the Peace may, in writing, require such occupier to permit the owner to execute all such works with respect to such house or land as may be necessary for carrying this Act into effect;

and if, after the expiration of eight days from the date of the order, such occupier continue to refuse to permit such owner to execute such works, every such owner, during the continuance of the refusal, shall be discharged from liability to any fines to which he might otherwise have become liable by reason of default in executing such works.

Penalty.

370. Whoever, being the occupier of any house or land, fails to comply with any requisition made by a Justice of the Peace under the last preceding section, shall be liable to a fine not exceeding fifty rupees, and to a further fine, not exceeding twenty rupees, for each day during which the offence is continued after he has been convicted of such offence.

Formal defects not to invalidate tax or assessment.

371. No tax or rate on property made under this Act shall be invalid for defect of form, and it shall be enough in any such tax or rate, or any assessment of value for the purpose of making such tax or rate, if the property rated

or assessed is so described as to be generally known, and it shall not be necessary to name the owner or occupier thereof.

Recovery of expenses on account of improvements to private property.

372. Whenever the Commissioners shall have incurred any expenses in the execution of any of the works which, under sections 200, 274, 276 and 278, the owners of any houses or lands are required to execute, the Commissioners may either recover the amount of such expenses in the manner therein provided, or, if they think fit, may take engagements from the said owners for the quarterly payment of such sums as will be sufficient to defray the whole amount of the said expenses, with interest thereon at the rate of six per centum per annum, within a period not exceeding five years, and such sums, when due, may be recovered as rates under chapter VI.

Police-officers to report offences to Commissioners and may arrest certain offenders.

373. All Police-officers shall give immediate information to the Commissioners of any offence committed against this Act.

Any Police-officer may arrest any person committing in his view any offence against this Act, if the name and address of such person be unknown to him,

or if such person decline to give his name and address,

or if the Police-officer shall have reason to doubt the accuracy of such name and address, if given.

And such person may be detained at the station-house until his name and address shall be correctly ascertained, or may be brought up at once before a Justice of the Peace.

Provisions of Act extended.

374. If the Local Government shall have determined that any portion of the environs of the town shall be included in the system of sewerage and drainage authorized by this Act, and if the Local Government shall have declared the boundaries thereof by notification in the *Calcutta Gazette*, then sections 215 to 234, both inclusive, shall have effect within the boundaries so declared;

and all such expenses and compensation as, under the said sections and by the provisions of this Act, may be determined by the Court of Small Causes, may be ascertained and determined by any Court of Small Causes having jurisdiction within such boundaries; and all fines payable in respect of such sections, and under this Act, shall be enforced in the manner prescribed by section 307 of the Code of Criminal Procedure by the Magistrate having jurisdiction within such boundaries.

Houses used for public worship exempt from rates and taxes.

375. Houses used exclusively for purposes of public worship shall be exempt from all rates and taxes which under this Act may be imposed upon houses and land within the town.

Saving clause.

376. Nothing in this Act contained shall be construed to

(*a*) render lawful any act or omission on the part of any person, which, but for this Act, would by law be deemed to be a nuisance:

(*b*) exempt any person guilty of nuisance from a suit in respect thereof:

(*c*) affect any enactment not hereby expressly repealed.

FIRST SCHEDULE.

Boundaries of Wards.

(*See section 13*).

Ward No. 1.—Bounded on the north and east by Upper Circular Road and Mahratta Ditch; south by Grey Street; west by Upper Chitpore Road.

Ward No. 2.—Bounded on the north by the Mahratta Ditch; west by River Hooghly; south by Nimtollah Ghát Street; east by Upper Chitpore Road.

Ward No. 3.—Bounded on the north by Ooltadingee Main Road, the Mahratta Ditch and Grey Street; south by Beadon Street and Halshi Bagan Road; west by Upper Chitpore Road; east by Mahratta Ditch.

Ward No. 4.—Bounded on the north by Beadon Street; south by Machooa Bázár Road; east by Upper Circular Road and Mahratta Ditch; west by Cornwallis Street.

Ward No. 5.—Bounded on the north by Nimtollah Ghát Street; south by Cotton Street and Meerboher Ghát Street; east by Upper Chitpore Road; west by River Hooghly.

Ward No. 6.—Bounded on the north by Beadon Street; south by Machooa Bázár Road; east by Cornwallis Street; west by Upper Chitpore Road.

Ward No. 7.—Bounded on the north by Cotton Street and Meerboher Ghát Street; south by Loll Bázár Street, Dalhousie Square, North, and Fairlie Place; east by Lower Chitpore Road; west by River Hooghly.

Ward No. 8.—Bounded on the north by Machooa Bázár Road; south by Bow Bázár Street; east by College Street; west by Lower Chitpore Road.

Ward No. 9.—Bounded on the north by Machooa Bázár Road; south by Bow Bázár Street; east by Upper Circular Road; west by College Street.

Ward No. 10.—Bounded on the north by Bow Bázár Street; south by Dhurrumtollah Street; east by Wellington Street; west by Bentinck Street.

Ward No. 11.—Bounded on the north by Bow Bázár Street; south by Dhurrumtollah Street; east by Lower Circular Road; west by Wellington Street.

Ward No. 12.—Bounded on the north by Loll Bázár Street, Dalhousie Square and Fairlie Place; south by Esplanade Row; east by Bentinck Street; west by River Hooghly.

Ward No. 13.—Bounded on the north by Dhurrumtollah Street; south by

Kyd Street, Free School Street, and South Culinga Street; east by Wellesley Street; west by Chowringhee Road.

Ward No. 14.—Bounded on the north by Dhurrumtollah Street; south by South Culinga Street; east by Lower Circular Road; west by Wellesley Street.

Ward No. 15.—Bounded on the north by South Culinga Street; south by Theatre Road; east by Lower Circular Road; west by Wellesley Street and Wood Street.

Ward No. 16.—Bounded on the north by Kyd Street and South Culinga Street; south by Theatre Road; east by Wellesley Street and Wood Street; west by Chowringhee Road.

Ward No. 17.—Bounded on the north by Theatre Road; south by Lower Circular Road; east by Lower Circular Road; west by Jail Road.

Ward No. 18.—Bounded on the north by Clyde Row; south by Tolly's Nullah Road; east by Kidderpore Bridge Road; west by Strand Road.

SECOND SCHEDULE.

(*See section 65*).

TAX ON CARRIAGES AND ANIMALS.

	Per half-year. Rs. A. P.
For every four-wheeled carriage drawn by two horses ...	12 0 0
If more than one such carriage, then for every such carriage after the first, two-thirds of the above rate.	
For every four-wheeled carriage drawn by one horse, or pony or mule, or a pair of ponies or mules under thirteen hands	6 0 0
If more than one such carriage, then for every such carriage, after the first, two-thirds of the above rate.	
For every two-wheeled carriage	6 0 0
For every horse (*not a race-horse*), pony or mule	6 0 0
For every race-horse	12 0 0
For every pony or mule under thirteen hands	2 0 0

NOTE.—Animals under eleven hands in height, and carriages, the wheels of which do not exceed twenty-four inches in diameter, are exempted.

THIRD SCHEDULE.

(*See section 75*).

LICENSE ON PROFESSIONS, TRADES AND CALLINGS.

Class I.

	Yearly. Rs.
Every Joint Stock Company	100

Class II.

Every merchant, banker, shroff, banian, wholesale-trader and commission-agent, and every practising surgeon, physician, dentist, architect, civil engineer, builder, contractor, carrying company, barrister, attorney, proctor, notary public and pleader of the High Court ...	50
Every owner or farmer of a hát or bázár	
Every owner of cotton, jute, hide or other screws, and every auctioneer	
Every hotel-keeper, boarding-house keeper, lodging-house keeper, shop-keeper, plumber, gas-fitter, manufacturer or retail-trader, whose shop or place of business is assessed under chapter V at one hundred rupees a month or upwards	

Class III.

Every broker or dalál employed in the wholesale transfer or purchase of imports or exports, country-produce, silk or other merchandize	25
Every broker or dealer in precious stones, houses, landed property, Government securities, shares and bills of exchange, and every freight broker	
Every practising licentiate of medicine, apothecary and veterinary surgeon	
Every owner of a dispensary, spirit or liquor shop, or shop for the sale of intoxicating drugs, and punch-house or billiard-room, wholesale tobacco or jute depôt ...	
Every owner of a steamferry-boat or cargo-boat	

	Yearly. Rs.
Class III—continued.	
Every hotel-keeper, boarding-house keeper, lodging-house keeper, plumber, gas-fitter, carriage and horse-dealer, shop-keeper, manufacturer or trader, whose shop or place of business is assessed under chapter V at or above twenty-five rupees, but at less than one hundred rupees a month	25
Every pawn-broker, money-lender and every person having a shop or place of business registered under section 291 or licensed under section 292	
Every pleader, mukhtár or law-agent not included in class II	
Class IV.	
Every hotel-keeper, boarding and lodging-house keeper, owner of a carriage or a palanquin let out for hire, plumber, gas-fitter, band-supplier, carrier, stamp-vendor, carriage or horse-dealer, shop-keeper, manufacturer or trader, whose shop or place of business is assessed under chapter V at or above ten rupees, but at less than twenty-five rupees a month	12
Every keeper of a permanent stall at a daily public market or in a chauk	
Every poddar or money-changer	
Every hakím and kobiráj, practising native doctor ...	
Every order-supplier, cooly-supplier, shipping-agent or boat-supplier	
Class V.	
Every keeper of a shop not included in any other class, and every dalál not included in class III	4
Every pedlar, hawker, box-wálá and midwife	
Class VI.	
All itinerant dealers hawking goods for sale in baskets or trays	1

NOTE.—A person who carries on several kinds of business, and may come under more than one of the designations in this schedule, shall be chargeable only under one of such designations, at the discretion of the Commissioners; and in the case of a firm consisting of two or more persons, payment by any one of such persons shall be considered payment by the firm.

FOURTH SCHEDULE.

(*See section 122*).

NOTICE OF DEMAND.

TAKE notice that the Commissioners of the town of Calcutta demand from you the sum of due from* [you] as owner (*or* occupier) *(here describe the property or thing upon which the rate or tax is imposed)* for the months of 187 ; and that if the sum due, together with for this notice, is not paid into the office of the said Commissioners at or if sufficient cause for the non-payment of the sum is not shewn to the Commissioners within seven days from the service of this notice, a warrant of distress will be issued for the recovery of the same with costs.

L. S.

(*Signature of the Chairman, Vice-Chairman or Secretary*).

Date———

FIFTH SCHEDULE.

(*See section 122*).

DISTRESS-WARRANT.

To *(here insert the name of the officer charged with the execution of the warrant)*.

WHEREAS of has not paid or shewn sufficient cause for the non-payment of the sum of rupees due for the rates (*or* taxes) (*or* taxes and rates) mentioned in the margin for the months of 187 although the said sum has been duly demanded in writing from the said and seven days have elapsed since the service of the notice of demand: This is to command you to distrain the moveable property of the said (*or, as the case may be,* any moveable property found on the premises referred to) to the amount of the said sum of rupees, and such

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* In the case of a demand on the occupier of a house under section 126, state that notice of demand has been served upon the owner, and that the sum due remains unpaid.

further sum as may be sufficient to defray the charges of taking, keeping and selling such distress; and if within seven days next after such distress the said sum shall not be paid, together with such further sum as may be sufficient to defray the charges of taking and keeping such distress, to sell the said moveable property; and having paid and deducted out of the proceeds of the sale the said sum of rupees and the charges of taking, keeping and selling such distress, to return the surplus, if any, on demand, to the person whom you shall find in possession of the said moveable property. If sufficient distress cannot be found of the moveable property of the said , you are to certify the same to us together with this warrant.

L. S.

(*Signature of the Chairman, Vice-Chairman or Secretary*).

SIXTH SCHEDULE.

(*See section 123*).

FORM OF INVENTORY AND NOTICE.

(*State particulars of goods seized*).

TAKE notice that I have this day seized the moveable property specified in the above inventory for the sum of rupees due for the rates (*or* taxes) mentioned in the margin, for the months of 187 ; and that, unless you pay into the office of the Commissioners of the town of Calcutta the amount due, together with the costs of this distress, within seven days from the day of the date of this notice, the said property will be sold.

(*Signature of the Officer executing the Warrant of Distress*).

Date ———————

TABLE OF FEES PAYABLE IN DISTRAINTS.

(*See section 124*).

Sum distrained for.	Fee.	
	Rs.	As.
Under 5 rupees	0	4
5 and under 10 rupees	0	8
10 „ 15 „	1	0
15 „ 20 „	1	8
20 „ 30 „	2	0
30 „ 40 „	3	0
40 „ 50 „	4	0
50 „ 60 „	5	0
60 „ 70 „	6	0
70 „ 80 „	7	0
80 „ 90 „	8	0
90 „ 100 „	9	0
Above 100	10	0

The above charge includes all expenses except when peons are kept in charge of property distrained, in which case four annas must be paid daily for each man.

SEVENTH SCHEDULE.

(*See section 335*).

FORM OF DEBENTURE.

The Commissioners for the town of Calcutta.

No. Calcutta, the 187 .

By virtue of the Calcutta Municipal Consolidation Act, 1876, we, the Commissioners of the town of Calcutta incorporated under the said Act, in consideration of the sum of rupees paid to us by *A. B.* of promise to pay to the said or order the said sum of rupees after the date hereof, together with interest thereon at the rate of per centum per annum, payable half-yearly, on the day of and the day of

(*Signature of the Chairman, or Vice-Chairman, and two Commissioners*).

EIGHTH SCHEDULE.

(See sections 171 and 172).

18 BIRTHS IN THE DISTRICT OF

No.	When born.	Nationality or Caste.	Name, if any.	Sex.	Name of Father.	Profession of Father.	Signature, description and residence of informant.		When registered.	Signature of Registrar.

NINTH SCHEDULE.

(See sections 171, 172, 174 and 177).

18 DEATHS IN THE DISTRICT OF

No.	When died.	Nationality or Caste.	Name.	Sex.	Age.	Profession.	Cause of death.	Residence at time of death.	Residence previous to last illness.	Signature, description and residence of informant.	When registered.	Signature of Registrar.

TENTH SCHEDULE.

(*See section 2*).

ACTS OF THE LIEUTENANT-GOVERNOR OF BENGAL IN COUNCIL.

Number and year.	Subject.	Extent of repeal.
VI of 1863 ...	Calcutta Municipal Affairs ...	So much as has not been repealed.
Section 49 of III of 1864.	District Municipal Improvement ...	So far as the same applies to Suburbs and Howrah.
VII of 1865 ...	Slaughter-houses	So far as the same applies to Suburbs.
IX of 1865 ...	Amendment of Bengal Act VI of 1863.	The whole Act.
VI of 1866 ...	Further amendment of Bengal Act VI of 1863.	So much as has not been repealed.
I of 1867 ...	Explanation of Bengal Act VI of 1863.	The whole Act.
IX of 1867 ...	Amendment of Bengal Acts VI of 1863 and VI of 1866.	So much as has not been repealed.
XI of 1867 ...	Pauper Hospital and Calcutta Police	The whole Act.
V of 1868 ...	Subjecting a portion of Hastings to the Calcutta Municipal Acts.	The whole Act.
I of 1870 ...	Calcutta Water-rate	The whole Act.
VI of 1871 ...	Modifying and amending the constitution of the Corporation of the Justices of the Peace for Calcutta.	The whole Act.
VIII of 1871 ...	Markets	So much as has not been repealed.
I of 1872 ...	Extending borrowing powers of the Justices, and providing for the repayment of the Municipal debt.	The whole Act.
II of 1874 ...	Markets	The whole Act.

THE BENGAL MUNICIPAL CONSOLIDATION ACT, 1876.

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SIX SCHEDULES.

ACT No. V of 1876.

Received the Lieutenant-Governor's assent on the 18th of April 1876, and the Governor General's assent on the 10th of June 1876.

An Act to amend and consolidate the law relating to Municipalities.

Preamble. WHEREAS it is expedient to consolidate and amend the law relating to municipalities within the territories subject to the government of the Lieutenant-Governor of Bengal; It is enacted as follows: —

CHAPTER I.

PRELIMINARY.

Short title. 1. This Act may be called the "Bengal Municipal Act, 1876;"

Commencement. and it shall come into force on such date as the Lieutenant-Governor may direct, not being more than three months after the date on which it may be published in the *Calcutta Gazette* with the assent of the Governor General.

Enactments repealed. 2. On the commencement of this Act the enactments specified in the fifth schedule shall be repealed to the extent mentioned in the third column thereof; and the enactment specified in the sixth schedule shall cease to be in force in every municipality under this Act to the extent mentioned in the third column thereof.

But this repeal shall not revive any office, authority or thing abolished by any such enactment, or affect the validity of anything done or suffered, or any right, title, obligation or liability accrued before the commencement of this Act.

And all rules and bye-laws prescribed; assessments, valuations, measurements, divisions and appointments made; powers conferred and notifications published under any such enactment; and all other rules (if any) now in force and relating to the matters hereinafter dealt with, shall (so far as they are consistent with this Act) be deemed to have been respectively prescribed, made, conferred and published hereunder.

And all references to any such enactment shall (so far as may be practicable) be deemed to be made to this Act.

And all proceedings now pending, which may have been commenced under any such enactment, shall be deemed to be commenced under this Act.

In reference to all the matters aforesaid,

the Commissioners under chapter II shall, in respect of every municipality, be substituted for the late Commissioners, or town committee (as the case may be);

and the panchâyat under chapter III shall, in respect of every union, be substituted for the panchâyat under Act XX of 1856;[a]

and the Commissioners under chapter IV shall, in respect of every station, be substituted for the Commissioners under Act XXVI of 1850.[b]

First class and second class municipalities.

3. Unless and until the Lieutenant-Governor shall otherwise direct by a notification to be published in the *Calcutta Gazette*, every place in which the provisions of the District Municipal Improvement Act, 1864, shall have been in force immediately before the commencement of this Act, shall, from the said commencement, become a first class municipality under chapter II, and every place in which the provisions of the District Towns' Act, 1868, shall have been in force immediately before the commencement of this Act, shall, from the said commencement, become a second class municipality under the said chapter;

and every place in which Act XX of 1856 shall have been in force immediately before the commencement of this Act, shall, from the said commencement, become a union under chapter III;

and every place in which Act XXVI of 1850 shall have been in force immediately before the commencement of this Act, shall, from the said commencement, become a station under chapter IV.

Property of late Commissioners or committee vested in Commissioners under Act.

4. All property, moveable and immoveable, of any kind whatsoever, derived under any of the enactments specified in the fifth schedule, or otherwise, and vested in or held in trust for the late Commissioners under the said District Municipal Improvement Act, 1864, or the late committee under the said District Towns' Act, 1868, shall become vested in the Commissioners under chapter II and their successors; and all such property vested in or held in trust for the late Commissioners under Act XXVI of 1850 shall become vested in the Commissioners of the station under chapter IV and their successors.

Act not to be extended to cantonments without consent of Governor General.

5. Notwithstanding anything contained in section 3, this Act shall not take effect in any cantonment without the consent of the Governor General in Council previously obtained, nor shall the Lieutenant-Governor extend this Act, or any part thereof, to any cantonment without such consent.

Interpretation-clause.

6. In this Act, unless there be something repugnant in the subject or context—

"Carriage."

(1) "carriage" means any wheeled vehicle with springs used for the conveyance of human beings, and ordinarily drawn by animals:

"Cart."

(2) "cart" means any cart, hackery or wheeled vehicle with or without

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a, b Repealed by this Act.

springs, ordinarily drawn by animals, and not included in the definition of "carriage:"

"Chapter." (3) "chapter" means a chapter of this Act:

"Holding." (4) "holding" includes any parcel of land, house, tank or other immoveable property which has been separately valued for assessment, or in respect of which any person has been separately assessed, or which, in the opinion of the Commissioners, should be separately valued, or in respect of which, in the opinion of the Commissioners, any person should be separately assessed:

"House." (5) "house" includes any hut, shop, warehouse or building:

"Immoveable property." (6) "immoveable property" means land, benefits to arise out of land, houses, things attached to the earth or permanently fastened to anything attached to the earth:

"Land." (7) "land" means benefits to arise out of land, houses, things attached to the earth or permanently fastened to anything attached to the earth:

"Moveable property." (8) "moveable property" means property other than immoveable property:

"Lieutenant-Governor." (9) "Lieutenant-Governor" means the Lieutenant-Governor of Bengal for the time being or the person acting in that capacity:

"Magistrate of the district." (10) "Magistrate of the district" means the chief Magistrate in a district:

"The Magistrate." (11) "the Magistrate" includes the Magistrate of the district, the Magistrate in charge of a division of the district in which division a municipality is constituted, and every Magistrate subordinate to the Magistrate of the district to whom the Magistrate of the district may have made over any duties under this Act:

"Municipality." (12) "municipality" means any place (not being a station as defined in clause (20) or a union as defined in clause (21) of this section) in which this Act, or any part thereof, is in force:

"Offensive matter." (13) "offensive matter" means night-soil, sewage and other contents of privies, drains and cess-pools:

"Owner." (14) "owner" includes

(*a*) every person who is entitled for the time being to receive any rent in respect of the land with regard to which the word is used, whether from the occupier or otherwise;

(*b*) a manager on behalf of any such person;

(*c*) an agent for any such person;

(*d*) a trustee for any such person:

Provided that no such manager, agent or trustee, shall be liable to do anything required by this Act to be done by the owner, nor shall he be subject

to any fine for omitting to do such thing, unless he have sufficient funds in his hands as such manager, agent or trustee, to do such thing:

(15) "road" means any road, street, square, court, alley or passage whether a thoroughfare or not, over which the public have a right of way: "Road."

(16) "rubbish" means all dirt, dung, broken brick, mortar, broken glass, kitchen or stable-refuse, or refuse of any kind whatsoever, and filth of any kind not included in the term "offensive matter:" "Rubbish."

(17) "schedule" means a schedule annexed to this Act: "Schedule."

(18) "section" means a section of this Act: "Section."

(19) the "Commissioners" means the persons for the time being appointed or elected to conduct the affairs of any municipality or of any station (as the case may be) under this Act, and includes *ex officio* Commissioners under this Act: "The Commissioners."

(20) "station" means any town or suburb in which the provisions of chapter IV are in force: "Station."

(21) "union" means any city, town, suburb or bázár in which the provisions of chapter III are in force: "Union."

(22) "year" means a year beginning on the first day of April, or on such other date as may hereafter be fixed for any municipality by the Lieutenant-Governor by notification in the *Calcutta Gazette*. "Year."

CHAPTER II.

Of Municipalities.

Part I.—Of the Creation of Municipalities.

Tax on holdings and persons in first and second class municipalities.

7. In every place which, in accordance with the provisions of section 3, becomes a municipality under this chapter, every person who has been appointed or elected to be a Commissioner or a member of a town-committee for such place under any enactment hereby repealed, and who is holding office as such Commissioner or member at the commencement of this Act, shall be deemed to be a Commissioner duly appointed for such municipality; and in every such place which becomes a first class municipality, it shall be deemed that a rate on the annual value of holdings under section 77, and in every such place which becomes a second class municipality as aforesaid, it shall be deemed that a tax upon persons under the said section, has been duly imposed; and such rate or tax shall be levied accordingly until the Commissioners at a meeting, with the sanction of the Lieutenant-Governor, shall otherwise direct;

and in every municipality as aforesaid in which a tax on carriages and animals, or a fee upon the registration of carts, or tolls on roads or on ferries,

may have been levied by the Municipal Commissioners or town-committee before the commencement of this Act, it shall be deemed that the said tax, fee or tolls have been duly imposed under section 78, and such tax, fee or tolls shall continue to be levied accordingly until the Commissioners at a meeting, with the sanction of the Lieutenant-Governor, shall otherwise direct.

Power to extend Act

8. Except as is hereinafter otherwise expressly provided, chapters I, II and V may be extended by the Lieutenant-Governor by notification published in the *Calcutta Gazette*, and in the manner prescribed by section 365, to any town or village not being within the limits of the ordinary original jurisdiction of the High Court at Fort William in Bengal, from such date as may be specified in such notification, and save as is hereinafter otherwise provided, such chapters shall take effect in such town or village on the date so specified:

Provided that at least 6 weeks before publishing any notification as aforesaid, the Lieutenant-Governor shall cause to be published in the town or village concerned a notice of his intention to declare the said town or village to be a municipality, unless good reason to the contrary be shewn within one month.

Any objections which may be made to the proposed measure shall be duly considered by the Lieutenant-Governor before he causes to be issued the notification declaring the town or village to be a municipality under this Act.

Municipalities.

9. From the date specified in any notification under the last preceding section, the town or village mentioned in such notification shall be deemed to be created a municipality for the purposes of this Act.

The notification shall—

(*a*) define the limits of the municipality;

(*b*) declare whether the same shall, for the purposes of this Act, be a first or second class municipality.

Transfer from one class to another and variation of limits.

10. The Lieutenant-Governor may, on the recommendation of the Commissioners at a meeting, or of his own motion, by like notification, at any time order that a municipality be transferred from one class to the other; and may vary the limits of any municipality or withdraw any town or village from the operation of this Act.

Conditions on which municipality may be created.

11. Chapters I, II and V of this Act shall not be extended to any town or village, unless the Magistrate shall have certified to the Lieutenant-Governor that three-fourths of the adult male population of such town or village are chiefly employed in pursuits other than agricultural; and that such town or village contains a number of inhabitants not being less than 3,000, and an average number of not less than 1,000 inhabitants to the square mile of the area of such town or village.

Conditions on

12. No town or village shall be declared to be a first class municipality,

unless the Magistrate shall have certified to the Lieutenant-Governor that such town or village contains at least 15,000 inhabitants, and an average number of not less than 2,000 inhabitants to the square mile of the area of such town or village. which first class municipality may be created.

13. The Lieutenant-Governor may from time to time, by notification in the *Calcutta Gazette*, declare that any place in which three-fourths of the adult male population are chiefly employed in pursuits other than agricultural, shall be united with any town or village as aforesaid for the purposes of forming a municipality of the first or second class, as the case may be, provided that no such place shall be so united unless some part of such place be situated within the distance of one mile from some part of such town or village. Lieutenant-Governor may unite places to municipality.

Every such declaration shall specify the boundaries of every place so to be united.

Every town or village with which any such place is united, and all places so declared to be united with any such town or village, shall be deemed, for purposes of taxation, and for all other purposes, to form part of one and the same municipality.

14. Notwithstanding anything hereinbefore contained, whenever the Lieutenant-Governor shall declare any place or places as aforesaid to be united with any town or village for the purpose of forming one municipality, the Lieutenant-Governor may similarly declare that any land by which any such place is separated from the town or village with which it is united, and any land by which any such place is separated from any other such place which is united with the said town or village, shall be deemed to form part of the municipality for all purposes other than those of taxation. Land between municipality and place united to form part of municipality.

And such declaration shall specify the exterior boundaries of the entire municipality as constituted under this and the last preceding section.

PART II.

Of the Municipal Authorities.

Of the Constitution of the Municipality.

15. The Lieutenant-Governor shall from time to time appoint, in every municipality, proper persons to be Commissioners for carrying out the purposes of this Act : Appointment of Commissioners.

Provided that the total number of Commissioners holding office in any first class municipality shall not at any time be less than 7 or more than 30, and in any second class municipality shall not at any time be less than 4 or more than 20 :

Provided also that not more than one-fourth of the whole number of Commissioners so appointed shall be persons holding in the judicial, police or revenue departments of the Government service salaried offices of which the functions are exercised within the district in which the municipality is situated, unless such persons be elected Commissioners under the next succeeding section.

In case such whole number is not evenly divisible by 4, the one-fourth shall be ascertained by taking the number next below the whole number, which is evenly divisible by 4, as the number to be divided.

Election of Commissioners.

16. The Lieutenant-Governor may at any time direct that the whole or any number of the Commissioners to be appointed under the last preceding section shall be elected, and may lay down such rules as he shall think fit, not being inconsistent with the provisions of this Act, in respect of the qualifications required to entitle any person to stand as a candidate for such election, and to entitle any person to vote for any such candidate, and in respect of the mode of election; and the Lieutenant-Governor may at any time cancel any rule made by him under this section.

But the elective system shall not be introduced into any municipality unless the Magistrate certifies that at least one-third of the rate-payers residing therein have signed a petition praying for its introduction.

Ex officio Commissioners.

17. In addition to the Commissioners appointed or elected as hereinbefore provided, the Magistrate of the district, the Magistrate of the division and the medical officer in charge of the district shall be *ex officio* Commissioners of every municipality situated within their respective jurisdictions; and the Lieutenant-Governor may direct, by notification in the *Calcutta Gazette*, that the persons for the time being exercising the functions of the offices to be named in such notification shall be *ex officio* Commissioners for any or every municipality to which the functions of the offices held by the persons so appointed may extend.

Ad interim vice-chairman and Commissioners.

18. The Lieutenant-Governor may appoint any persons to be *ad interim* vice-chairman and Commissioners pending the election of Commissioners.

Qualification of Commissioner.

19. No person who is not an owner or an occupier of land in the municipality shall be appointed or elected a Commissioner in such municipality; but this section shall not apply to any person whom the Lieutenant-Governor may direct to be an *ex officio* Commissioner.

Resignation of Commissioner.

20. The Lieutenant-Governor may from time to time accept the resignation of any Commissioner appointed or elected under this Act.

Removal of Commissioner.

21. The Lieutenant-Governor may, on the recommendation of the Commissioners, remove any Commissioner appointed or elected under this Act, if such Commissioner shall have been guilty of misconduct in the discharge of his duties, or of any disgraceful conduct.

Commissioner not attending meetings, or sentenced to imprisonment, to cease to be Commissioner

22. Any Commissioner who, without having obtained permission from the Commissioners, shall have omitted to attend 6 consecutive meetings of the Commissioners,

and any Commissioner who shall have been sentenced to imprisonment,

shall cease to be a Commissioner.

Tenure of office.

23. Except as hereinafter provided, every Commissioner shall vacate his office at the end of 3 years from the first day of the year next following the date of his appointment or election as such Commissioner.

Rotation Commissioners.

24. When Commissioners are for the first time appointed or elected in any place, one-third of the whole number of which the body may consist on the first day of the year next following the date of the appointment or election of such Commissioners, shall retire at the end of one year, and another third at the end of 2 years, and the rest at the end of 3 years, to be computed from the first day of the year next following the date of the appointment or election of such Commissioners.

In case such whole number is not evenly divisible by 3, the one-third shall be ascertained by taking the number next below the whole number, which is evenly divisible by 3, as the number to be divided.

The Commissioners who shall retire at the end of the first and second year respectively shall be selected by lot.

Application of rule of rotation separately to appointed and elected Commissioners.

25. When any Commissioners have been elected in a municipality, the rule of rotation in the last preceding section shall be applied separately to the Commissioners who have been appointed, and separately to the Commissioners who have been elected.

Calculation of number of Commissioners.

26. In calculating the whole number of Commissioners for the purposes of section 24, all *ex officio* Commissioners shall be excluded; and such *ex officio* Commissioners shall remain Commissioners so long as they continue to hold the respective offices in virtue of which they are respectively Commissioners.

Retirement by rotation.

27. When this Act comes into force in any place in which persons appointed or elected under any enactment hereby repealed remain in office as Commissioners, one-third of the whole number of which the body may consist on the date when this Act so comes into force shall retire at the end of one year, and another third at the end of 2 years, and the rest at the end of 3 years, to be computed from the first day of the year next following the date on which this Act shall have come into force in such place.

In case such whole number is not evenly divisible by 3, the one-third shall be ascertained by taking the number next below the whole number which is evenly divisible by 3, as the number to be divided.

The Commissioners who shall retire at the end of the first and second year respectively shall be selected by lot out of those who have held office for more

than 3 years at the end of such years respectively; and should the number of persons who have held office for more than three years fall short of one-third of the whole number of Commissioners, the number required to make up the one-third shall be selected by lot out of those Commissioners who have held office for less than three years.

When Commissioner may be re-appointed or re-elected.

28. Any person who has resigned the office of Commissioner, or has retired therefrom under sections 23, 24 or 27, or who has ceased to be a Commissioner in consequence of his failure to attend meetings as provided in section 22, may be at any time re-appointed or re-elected a Commissioner; but no person removed by the Lieutenant-Governor from his office under section 21, or who has ceased to be a Commissioner in consequence of being sentenced to imprisonment may be elected or re-elected a Commissioner without the sanction of the Lieutenant-Governor.

Chairman of Commissioners.

29. Unless the Lieutenant-Governor shall appoint any other person to be such chairman, the Magistrate of the district, if the municipality be within the sadr division, and the Magistrate in charge of the division of the district, if the municipality be situated within any other than the sadr division, shall be *ex officio* chairman of the Commissioners of the municipality.

The Magistrate of the district may, with the sanction of the Commissioner of the division, delegate to any Magistrate subordinate to him at a sadr station any of the powers vested by this Act in him as the chairman of the Commissioners of any municipality, and may withdraw such powers.

In the absence of the Magistrate of a division of the district, the Magistrate of the district may appoint any Magistrate subordinate to him to officiate as chairman of the Commissioners within such division.

Election of vice-chairman.

30. The Commissioners at a meeting shall elect their own vice-chairman, subject to the approval of the Lieutenant-Governor; he shall hold office for one year from the beginning of the year next following his election, and shall be eligible for re-election for the following year.

The vice-chairman, on election or re-election, shall be held to be appointed a Commissioner under this Act during his term of office.

The vice-chairman may at any time be removed from the office of vice-chairman by a resolution of the Commissioners, in favour of which not less than two-thirds of the Commissioners shall have given their votes either personally or in writing:

Provided that the Lieutenant-Governor may sanction the election permanently, or for a term of years, of a salaried vice-chairman, if proposed by the Commissioners at a meeting:

Provided also that the present salaried vice-chairman of any municipality who has been appointed by the Lieutenant-Governor under the provisions of

any enactment hereby repealed shall continue to hold the office until he resigns or is removed with the sanction of the Lieutenant-Governor.

Commissioners incorporated.

31. The Commissioners shall, in the name of their chairman, by the description of "The Chairman of the Municipal Commissioners of ," be a body corporate, and have perpetual succession, and a common seal, and in such name shall sue and be sued.

Such common seal shall have the name of the municipality engraved thereon in legible characters in the English language, and also in the vernacular of the district.

Of the Property and Contracts of the Commissioners.

Public roads, &c., vested in Commissioners.

32. All roads, bridges, embankments, tanks, ghâts, wharves, jetties, wells, channels and drains in any municipality (not being private property), and not being maintained by Government or at the public expense, now existing or which shall hereafter be made, and the pavements, stones and other materials thereof, and all erections, materials, implements and other things provided therefor, shall vest in, and belong to, the Commissioners.

But the Lieutenant-Governor may from time to time, by notification, exclude any road, bridge, embankment or drain from the operation of this Act, and may cancel such notification wholly or in part; provided that if the cost of the construction of the work shall have been paid from the municipal fund, such work shall not be excluded from the operation of this Act without the consent of the Commissioners.

Commissioners may, with consent of owners, take over and repair roads, &c.

33. The Commissioners at a meeting may agree with the person in whom the property in any road, bridge, embankment, tank, ghât, wharf, jetty, well, channel or drain is vested to take over the property therein, and after such agreement may declare, by notice in writing put up thereon or near thereto that such road, bridge, embankment, tank, ghât, wharf, jetty, well, channel or drain has been transferred to the Commissioners;

Thereupon the property therein shall vest in the Commissioners, and such road, bridge, embankment, tank, ghât, wharf, jetty, well, channel or drain shall thenceforth be repaired and maintained out of the municipal fund.

Existing hospitals, schools, rest-houses, &c., may be vested in Commissioners.

34. Every hospital, dispensary, school, rest-house, ghât and market, not being private property, or the property of a religious institution or society, and all medicines, furniture and other articles appurtenant thereto, not being such property, which at and after the commencement of this Act shall be found within any municipality, may, by order of the Lieutenant-Governor, duly published on the spot, be vested in the Commissioners of such municipality, and thereupon all endowments or funds belonging thereto shall be

transferred to, and vested in, such Commissioners as trustees for the purposes to which such endowments and funds were lawfully applicable at the time of such transfer:

Provided that no such order shall be published until one month after notice of the intention to transfer such property shall have been published in the *Calcutta Gazette*, and within the municipality in the vernacular language of the district.

Transfer conditional in certain cases.

35. If the Commissioners at a meeting shall, after publication of a notice as is mentioned in the last preceding section, object to the transfer to themselves of any hospital, dispensary, school, rest-house, ghát or market, on the ground that their funds cannot bear the charge, then such transfer shall not be made save under such conditions as the Commissioners at a meeting may agree to accept.

Power to purchase, lease and sell lands.

36. The Commissioners at a meeting may purchase or take on lease any land for the purposes of this Act, and may sell, let or otherwise dispose of any land not required for such purposes.

Land may be taken up under Land Acquisition Act, 1870.

37. The Lieutenant-Governor, on the application of the Commissioners that any land be acquired for the purposes of this Act, may, on being satisfied that the Commissioners are in a position to pay for such land either at once or in such instalments as the Lieutenant-Governor may think proper, notify under the provisions of the Land Acquisition Act, 1870, or any similar Act for the time being in force for the acquisition of land for public purposes, that such land is required for a public purpose, and may cause such land to be acquired under the provisions of such Act; and on payment by the Commissioners of the compensation awarded under such Act, the land shall vest in them for the purposes of this Act.

Commissioners to pay cost of land.

38. The Commissioners shall be bound to pay to the Government the cost of any land which may be acquired for them on their application under the provisions of the last preceding section.

Mode of executing contracts.

39. The Commissioners may enter into and perform any contract necessary for the purposes of this Act.

Every contract made on behalf of the Commissioners in a first class municipality in respect of any sum exceeding 500 rupees, or which shall involve a value exceeding 500 rupees, and every contract made on behalf of the Commissioners in a second class municipality in respect of any sum exceeding 200 rupees, or which shall involve a value exceeding 200 rupees, shall be sanctioned by the Commissioners at a meeting, and shall be in writing, and signed by at least two of the Commissioners, one of whom shall be the chairman or vice-chairman, and shall be sealed with the common seal of the Commissioners.

Unless so executed, such contract shall not be binding on the Commissioners.

Of the Mode of transacting the Business of the Municipality.

Commissioners to meet ordinarily once a month.

40. The Commissioners shall meet for the transaction of business (if there be any business to be transacted) at their office, or at some other convenient place, at least once in every month, and as often as a meeting shall be called by the chairman, or, in his absence, by the vice-chairman.

If there shall be no business to be laid before the meeting at any monthly meeting, the chairman shall, instead of calling the meeting, give notice of the same to each Commissioner 3 days before the date which is appointed for the monthly meeting.

Calling of special meetings.

41. The chairman, or, in his absence, the vice-chairman, shall call a special meeting on a requisition signed by not less than 3 of the Commissioners.

Who to preside at meetings of Commissioners.

42. The chairman, or, in his absence, the vice-chairman shall preside at every meeting, and, in the absence of both the chairman and vice-chairman, the Commissioners shall choose some one of their number to preside.

Questions decided by majority.

43. All questions which may come before the Commissioners at a meeting shall be decided by a majority of votes.

Casting vot

In case of equality of votes, the president shall have a second or casting vote.

Quorum.

44. No business shall be transacted at any meeting of the Commissioners unless such meeting has been called by the chairman or vice-chairman, and unless a quorum shall be present.

A quorum shall be—in any municipality in which the Commissioners are more than 15—5;

in any other municipality a number being not less than one-third of the entire number of Commissioners:

Provided that it shall require 2 members at least to form a quorum.

Minutes of proceedings.

45. Minutes of the proceedings of all meetings of the Commissioners shall be entered in a book to be kept for the purpose, and shall be signed by the president of the meeting, and such book shall be open to the inspection of the tax-payers.

Powers of chairman.

46. The chairman shall, for the transaction of the business connected with this Act, or for the purpose of making any order authorized thereby, exercise all the powers vested by this Act in the Commissioners:

Provided that the chairman shall not act in opposition to, or in contravention of, any order of the Commissioners at a meeting, or exercise any power which is directed to be exercised by the Commissioners at a meeting.

Chairman may delegate duties to vice-chairman.

47. The chairman may, by a written order, delegate to the vice-chairman all or any of the duties or powers of a chairman as defined in this Act, subject to such restrictions as may seem fit to him, and may at any time by a written order withdraw the same:

Provided that nothing done by the vice-chairman which might have been done under the authority of a written order from the chairman shall be invalid for want of or defect of such written order, if it be done with the express or implied consent of the chairman.

Appointment of overseers, clerks and subordinate officers.

48. The Commissioners at a meeting shall from time to time decide whether a paid secretary, engineer or health-officer is required or not, and what number of assessors, overseers, clerks, registrars, subordinate officers, servants and collectors of taxes or tolls, may be necessary for the municipality, and shall from time to time fix the salaries to be paid to such persons respectively out of the municipal fund, and the allowances to be granted to such persons during absence on leave.

Subject to the scale of establishment decided upon by the Commissioners under this section, the chairman shall have power to appoint such persons as he may think fit, and from time to time to remove such persons and appoint others in their places:

Provided that no person shall be appointed to an office the salary of which is more than 200 rupees per mensem without the sanction of the Commissioners at a meeting, subject to the approval of the Commissioner of the division; and provided also that no officer whose salary is more than 50 rupees per mensem shall be dismissed without the sanction of the Commissioners at a meeting.

Security from collector of taxes or tolls.

49. The Commissioners may take from every collector of municipal taxes or tolls, and from every other officer whose duty it is to receive or expend money on behalf of the Commissioners, such security as they may think proper.

Of Ward Committees.

Power to appoint ward-committees.

50. The Commissioners at a meeting may divide any municipality into wards, and thereupon appoint, or cause to be elected, for each ward, not less than 3 proper persons, whether such persons be or be not Commissioners for the time being, to be members of the ward-committee, and the Commissioners at a meeting may define the limits of the ward for which any ward-committee may be appointed or elected.

Commissioners may lay down rules for election.

51. The Commissioners at a meeting may, with the sanction of the Commissioner of the division, lay down rules, not being inconsistent with the provisions of this Act, in respect of the qualifications required to entitle any person who is not a Commissioner, to stand as a candidate for such election, and

to entitle any person to vote for any candidate, and in respect of the mode of election; and the Commissioners may at any time cancel any rule made by them under this section for such election.

Election of chairman and vice-chairman of ward-committee.

52. Each ward-committee may, for each year if they see fit, elect their own chairman and vice-chairman (if necessary) from among their own number, provided that if one or more Commissioners are members of the ward-committee, the chairman of the ward-committee shall be a Commissioner.

Commissioners may delegate powers to ward-committee.

53. The Commissioners at a meeting may delegate to a ward-committee such of the powers of Commissioners under this Act as to them may seem fit; and such ward-committee, within the limits of their ward, as defined by the Commissioners at a meeting, may exercise all or any of such powers, and shall be liable to all the obligations, imposed by this Act on Commissioners in respect of such powers.

All acts done, orders issued and assessments made by ward-committees shall be subject to the control and revision of the Commissioners at a meeting, who may at any time withdraw all or any of such powers.

Sections applicable to transaction of business by ward-committees.

54. The provisions of sections 40 to 47 (both inclusive) shall, as far as possible, be applicable to the transaction of business by ward-committees, and the Commissioners shall sanction the establishments of ward-committees in accordance with the provisions of section 48.

Removal, resignation and appointment of members.

55. All questions regarding the removal, resignation and appointment of members of ward-committees shall be settled by the Commissioners at a meeting.

Liability of Commissioners and Ward Committees.

Personal liability of Commissioner or member of ward-committee.

56. No Commissioner or member of a ward-committee shall be personally liable for any contract made, or expense incurred, by or on behalf of the Commissioners.

Every Commissioner or member of a ward-committee shall be personally liable for any wilful misapplication of money entrusted to the Commissioners to which he shall knowingly have been a party, and he shall be liable to be sued for the same.

Penalty on Commissioners and others interested in contracts.

57. No Commissioner or member of a ward-committee shall be interested, directly or indirectly, in any contract made with the Commissioners, and if any Commissioner shall be so interested, he shall thereby become incapable of continuing in office as a Commissioner, and shall be liable to a fine not exceeding 500 rupees:

Provided that no person shall, by reason of being a shareholder in, or a member of, any incorporated or registered company, be deemed interested in any contract entered into between such company and the Commissioners.

But no such shareholder or member shall act as a Commissioner or member

of a ward-committee in a matter relating to any contract entered into between such company and the Commissioners.

Commissioners disqualified from voting on certain questions.

58. No Commissioner or member of a ward-committee shall vote on any question which regards exclusively the assessment of himself, or the valuation of his property, or his liability to any tax.

PART III.

Of the Municipal Fund and its Application.

What shall constitute the municipal fund.

59. All sums received by the Commissioners, and all fines paid or levied in any municipality under this Act, and all other sums which, under the sanction of Government, may be transferred to the Commissioners, shall constitute a fund which shall be called the municipal fund, and shall, together with all property of every nature or kind whatsoever, which may become vested in the Commissioners, be under their control, and shall be held by them in trust for the purposes of this Act.

The municipal fund shall be deemed to be the fund applicable to Police purposes mentioned in sections 11 and 48 of Bengal Act II of 1866[a] (*to provide for the better regulation of the Police within the suburbs of the town of Calcutta*).

Payment on account of police, interest on loans and establishment.

60. The Commissioners shall set apart and apply annually out of the municipal fund—

first, such sum as they are by this Act required to provide for the maintenance of the municipal Police-force;

secondly, such sum as may be required for the payment of the interest which may fall due on any loan contracted by the Commissioners;

thirdly, such sum as they are by this Act required to provide for payment of their own establishment and the expenses of their office and for payment of the municipal establishments entertained in the offices of the Magistrate and of the Commissioner of the division under section 74.

Purposes to which fund may be applied.

61. After the said sums have been set apart under the last preceding section, the Commissioners at a meeting shall, as far as the municipal fund permits, from time to time cause roads, bridges, embankments, tanks, ghâts, wharves, jetties, wells, channels, drains, privies, latrines and urinals, being the property of the Commissioners, to be maintained and repaired, and the municipality to be cleansed;

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[a] See *supra*, p. 511.

and may, subject to such rules and restrictions as the Lieutenant-Governor may from time to time prescribe, apply the municipal fund to any of the following purposes within the municipality, that is to say—

(1) the construction and improvement of roads, bridges, embankments, squares, gardens, tanks, ghâts, wharves, jetties, wells, channels, drains, privies, latrines and urinals;

(2) the supply of water, and the lighting and watering of roads;

(3) the erection and maintenance of offices, Police-stations and other buildings required for municipal purposes;

(4) other works of public utility calculated to promote the health, comfort or convenience of the inhabitants:

provided that for every thousand inhabitants of any municipality not more than 200 rupees a year shall be expended on such other works of public utility, unless the Lieutenant-Governor shall, at the request of the Commissioners at a meeting, extend such limit for a special object;

(5) the construction and repair of school-houses, and the establishment and maintenance of schools either wholly or by means of grants-in-aid;

(6) the establishment and maintenance of hospitals and dispensaries;

(7) the promotion of vaccination;

(8) and generally to carrying out the purposes of this Act:

Provided that no portion of the municipal fund shall be applied to the establishment and maintenance of any school, hospital or dispensary, or to the promotion of vaccination, unless such application be sanctioned by the consent of a majority of the Commissioners present at a meeting specially convened for considering such application, or held after special notice has been given that such application will be considered at such meeting.

The Commissioners may do all things, not being inconsistent with this Act, which may be necessary to carry out the purposes of this section.

Contribution to other municipalities.

62. With the consent of two-thirds of the Commissioners obtained in writing, and with the sanction of the Lieutenant-Governor, the Commissioners may contribute a portion of the municipal fund towards the expenses incurred in any other municipality, or elsewhere, for any of the purposes mentioned in the last preceding section, and also towards the expenses of making, maintaining and repairing any work for the improvement of a river or harbour (by whomsoever such work may be done):

but no contribution shall be made under this section to any work unless the same is calculated to benefit the inhabitants of the contributing municipality.

Account-books to be kept open and quarterly statement published.

63. The account-books of the municipality shall be open to the inspection of any tax-payer at the office of the Commissioners on a day to be fixed in each month.

An account shewing the receipts and expenditure during the quarter, arranged under the proper heads and duly balanced, shall be prepared immediately after the close of each quarter, and shall, with the account-books, be open to the inspection of any tax-payer, and a copy of such account shall be forwarded to the Magistrate of the district.

A similar account shall be prepared for each year as soon as possible after its close, and shall be open to inspection as aforesaid, and a copy thereof shall be forwarded to the Magistrate of the district for submission to the Commissioner of the division.

Annual estimates of expenditure to be prepared.

64. The Commissioners, at a meeting held at least 3 months before the close of the year, shall prepare in detail estimates shewing the probable receipts and expenditure during the ensuing year, and the objects in respect of which it is proposed to incur such expenditure.

Estimates to be published.

65. Copies of the estimates and translations thereof in the vernacular of the district shall be lodged in the office of the Magistrate and in the municipal office or offices.

During 14 days after the estimates shall have been so lodged in the said offices, of which due notice shall be locally published, the estimates and translations in the vernacular of the district shall be open to inspection at all reasonable times by any tax-payer of such municipality who may desire to inspect the same.

Any written suggestion which may be deposited in the office of the Commissioners shall be recorded and laid before them for consideration at the next meeting.

Estimate to be transmitted to Magistrate and Commissioner.

66. After the expiration of the said 14 days, and after such revision as may appear requisite, the chairman shall transmit the estimates to the Magistrate of the district with any remarks or objections thereupon which may have been recorded by himself or by the Commissioners at a meeting;

and the Magistrate of the district shall forward them to the Commissioner of the division together with such remarks or objections, and his own opinion thereon.

Power of Commissioner of division and Lieutenant-Governor as to estimates.

67. The Commissioner of the division may either sanction the estimate or may submit it for the consideration of the Lieutenant-Governor.

The Lieutenant-Governor may either sanction the estimate as it stands, or sanction it after making such alterations therein as may seem to him fit, or may cause it to be returned to the Commissioners for such modifications as he may think necessary; and when such modifications have been made, the estimate shall be re-submitted to the Commissioner of the division and passed by him.

Estimate of expenditure may be revised.

68. The Commissioners at a meeting may from time to time revise any estimate of expenditure with the view of providing for any modifications which they may deem it advisable to make in the appropriation of the amount at their disposal, and such revised estimate shall be published and forwarded for sanction to the Commissioner of the division through the Magistrate of the district in the manner prescribed by section 66; and the Commissioner of the division and the Lieutenant-Governor may deal with such revised estimate in the manner provided by the last preceding section.

Disbursement of expenditure sanctioned in estimate.

69. After the estimates of the municipality for the year shall have been sanctioned by the Commissioner of the division, the Commissioners at a meeting may, from time to time, by a general or a special resolution, authorize the expenditure of any sum provided in such estimates, or any part of such sum, for the purpose to which it has been assigned in such estimate.

Notwithstanding anything contained in this section, the Lieutenant-Governor may lay down such rules as he may think fit limiting or regulating the powers of any municipality in respect to the expenditure of money for purposes which are provided for in the budget-estimates of the year.

Power of Lieutenant-Governor as to work estimated to cost more than Rs. 3,000.

70. If any work is estimated to cost above 3,000 rupees, the Lieutenant-Governor may require the plans and estimates of such work to be submitted for his approval, or for the approval of any officer of Government, before such work is commenced;

and may require statements of the progress and completion of such work, with accounts of the expenditure on the same, to be submitted from time to time, in such form as he may prescribe, for his approval, or for the approval of such officer of Government.

Disbursement of excess expenditure.

71. It shall not be lawful for the Commissioners to authorize the expenditure on any object during the year of a sum in excess of that which has been sanctioned in the estimate of the year, or in a revised estimate, for such object; but if it be found necessary in the course of the year, the Commissioners may recommend to the Commissioner of the division that the allotments which have been made to the different heads of the estimate shall be modified by transfer of any amount from one head to another, and the Commissioner of the division may sanction such transfers of allotment.

Annual report of proceedings, &c., to be submitted.

72. The Commissioners shall, at such time and in such form as the Lieutenant-Governor shall direct, furnish annually a report of their proceedings and statements of the works executed by them, and of all sums received and expended by them.

The report and any orders which may be passed thereon by Government shall be open to the inspection of the tax-payers at the office of the Commissioners with the account-books and the quarterly and annual accounts; and

the Lieutenant-Governor may, if he think fit, cause any such report to be published in the *Calcutta Gazette.*

Audit of accounts.

73. The municipal accounts shall be audited each year by such person and in such manner as the Lieutenant-Governor shall direct, and the expense of such audit shall be paid from the municipal fund.

Expense of clerks in office of Magistrate and Commissioner.

74. The Lieutenant-Governor may direct that the cost of maintaining clerks or other establishments in the offices of the Magistrate of the district and of the Commissioner of the division, for the audit of accounts and the requisite correspondence connected with the purposes of this Act, shall be paid in rateable proportion from the funds of the several municipalities which may be constituted under this Act in such district or division.

And the Commissioners of every municipality shall pay to the Magistrate of the district the sum which they may be required to pay for the purposes of this section and the last preceding section.

Custody of municipal fund.

75. All sums received on account of the municipal fund shall be paid into a Government treasury, or into any bank or branch-bank used as a Government treasury in or near to the municipality, and shall be credited to an account to be called the account of the municipality to which they belong:

Provided that the Commissioners may invest any moneys not required for immediate use either in the Government Savings' Bank or in Government securities, or in any other form of security which may be approved of by the Lieutenant-Governor.

Orders for payment of money.

76. Unless the Lieutenant-Governor shall expressly extend (as he is hereby empowered to do on the recommendation of the Commissioners) the limit of the powers of the chairman or vice-chairman in this behalf, all orders for the payment of money from the municipal fund, if for a sum not above 500 rupees in a first class municipality, and not above 200 rupees in a second class municipality, shall be signed by the chairman or vice-chairman; and all orders for larger sums by both of the said officers or by one of the said officers and another Commissioner.

No such orders shall be issued otherwise than for the payment of money of which the expenditure has been authorized by the Commissioners at a meeting, as provided in section 69.

PART IV.

Of Municipal Taxation.

Of the Power to impose Taxes and Tolls.

Alternative

77. The Commissioners may, from time to time, at a meeting convened

expressly for the purpose, of which due notice shall have been given, and with the sanction of the Lieutenant-Governor, impose within the limits of the municipality one or other, but not both, of the following taxes:— tax upon persons or holdings.

(*a*) a tax upon persons occupying holdings within the municipality according to their circumstances and property within the municipality:

provided that the total sum to be raised by such tax in any year shall not exceed the sum which would be produced by an average rate of 2 rupees and 4 annas per annum for each holding, and that the amount assessed in respect of the occupation of any one holding shall not be more than 84 rupees per annum; or

(*b*) a rate on the annual value of all holdings situated within the municipality:

provided that such rate shall not exceed seven and a half per centum on the annual value of such holdings, except within the municipality of Dháká, in which it shall not exceed 10 per centum on such annual value; and provided also that no rate shall be imposed on any holding of which the annual value is less than 6 rupees.[a]

78. The Commissioners may, from time to time, at a meeting convened as aforesaid, and with the sanction of the Lieutenant-Governor, order that the following tax, fee and tolls, or any of them, be levied within the limits of the municipality in addition to either of the taxes mentioned in the last preceding section:— Additional taxes.

(*a*) a tax on carriages, horses and other animals named in the third schedule;

(*b*) a fee on the registration of carts;

(*c*) tolls on ferries and (subject to the provisions of sections 149 and 150) tolls upon bridges and metalled roads.

Of the Tax on Persons.

79. When it has been determined that a tax shall be imposed on persons occupying holdings within the municipality, according to their circumstances and property, the Commissioners, after making such enquiries as may be necessary, shall cause to be prepared an assessment-list which shall contain the following particulars, and any others which the Commissioners may think proper to include:— Assessment-list to be prepared. Contents.

(*a*) name of the street or road in which the holding is situated;

(*b*) number of the holding on the register;

(*c*) name of person occupying the holding, whether such person be assessed or exempted from assessment;

[a] See Bengal Act No. VI of 1878, sec. 3, *infra*.

(*d*) description of the holding, and of the property within the municipality, with profession or business of the person assessed;

(*e*) amount of annual assessment;

(*f*) amount of quarterly instalment;

(*g*) if the occupier of the holding is exempted from assessment, a note to that effect.

The tax upon persons shall be payable in quarterly instalments by persons occupying holdings.

Such tax shall not be assessed or levied on any person in respect of the occupation of arable lands or of any building which is used exclusively as a place of worship.

Duration of assessment.

80. Save as is herein otherwise provided, every assessment of the tax upon persons shall take effect from the beginning of the year next following that in which the notice required by section 103 is published, and shall be valid for 3 years and until the beginning of the year next after the date on which a new assessment or valuation may be published, or until the assessment and valuation be revised and amended:

Provided that when chapters I, II and V are extended to any place, the first assessment may take effect from the beginning of the quarter next following that in which the said notice shall be published:

Provided also that, whenever the tax on persons which was assessed under the District Towns' Act, 1868, remains in force in any second class municipality and is levied therein under the provisions of section 7, the Commissioners may revise such assessment, or may make a new assessment, and may order that such revision or new assessment shall take effect from the beginning of the year next following the date on which the notice required by section 103 is published.

Assessment of public buildings.

81. In any municipality in which the tax on persons is imposed, no tax shall be assessed on any person in respect of his occupation of any holding which is the property of Government and used for the purposes of a public building, but a rate of seven and a half per centum shall be assessed on the annual value of every such holding, to be ascertained in the manner prescribed by section 92, and such rate shall be payable by the Government.

Procedure if aggregate amount of rates assessed on any person exceeds rupees 84 per annum.

82. Whenever any tax shall have been assessed on any person in respect of his occupation of two or more holdings, and the aggregate of the amount so assessed upon him shall exceed 84 rupees per annum, such person may, within 15 days of the publication of the notice required by section 103, apply to the Commissioners to cancel such assessment, and to substitute for the total amount of tax so assessed upon him in respect of the said holdings a rate to be calculated at seven and a half per centum on the annual value of

such holdings; and the Commissioners shall thereupon substitute such rate; and for the purpose of calculating the amount of such rate, shall determine the annual value of the said holdings in the manner prescribed by section 92.

Every rate imposed under this section shall be payable by the occupier of the holdings so rated.

Power of exemption.

83. The Commissioners may exempt from assessment any person who may by them be deemed too poor to pay the tax; but the name of the occupier of every holding shall be included in the assessment-list, whether he be assessed or exempted from assessment.

Power to apply for reduction of assessment in altered circumstances.

84. Any person mentioned in the assessment-list, who shall at any time after the publication thereof have ceased to occupy any holding in respect of the occupation of which he has been assessed, or whose means and property in respect of which he has been so assessed shall have been reduced, may apply to the Commissioners to exempt him from his assessment or to revise the same.

Power to alter assessment.

85. The Commissioners may, at any time after the publication of the notice required by section 103, assess any person who was without authority omitted from the assessment-list, or whose liability to assessment has accrued thereafter, and may enhance any assessment which appears to them to be inadequate, and to have been so made owing to mistake or fraud.

Any assessment or enhancement made under this section shall take effect from the beginning of the quarter next following that in which such assessment or enhancement is made.

Procedure on change of occupation.

86. The Commissioners may at any time substitute for any name mentioned in the assessment-list the name of any new occupier of a holding, and may assess the tax on such person, and such person shall be liable to pay such assessment from the date on which his occupation of the holding commenced.

Assessment on vacant holdings when to cease.

87. If any holding shall become vacant in the course of the year, the assessment on account of the occupation of such holding shall cease to have effect from the first day of the quarter next following that in which it became vacant.

Of the Rate on the Value of Holdings.

Commissioners to determine valuation of holdings.

88. When it has been determined that a rate shall be imposed on the annual value of holdings, the Commissioners, after making such enquiries as may be necessary, shall determine the valuation of all holdings within the municipality as hereinafter provided.

Duration of assessment.

89. Save as is herein otherwise provided, such valuation shall be valid for 3 years from the date on which it first takes effect in the municipality, and until the beginning of the year next after the date on which a new valuation may be made, or until the valuation be revised and amended:

Provided that, whenever the tax on the value of holdings which was imposed and assessed under the District Municipal Improvement Act, 1864, remains in force in any municipality and is levied thereon under the provisions of section 7, the Commissioners may revise the valuation and rating according to which such tax is being levied, or may make a new valuation and rating, and may order that such revision or such new valuation and rating shall take effect from the beginning of the year next followiug the date on which the notice required by section 103 is published.

Exemption of places of worship.

90. The rate on the value of holdings shall not be assessed or levied on any holding which is used exclusively as a place of worship.

Returns required for ascertaining annual value.

91. The Commissioners, in order to prepare the valuation-list, may, whenever they think fit, by notice, require the owners or occupiers of all holdings to furnish them with returns of the rent or annual value thereof, and the Commissioners, or any person authorized by them in that behalf, at any time between sunrise and sunset, may enter, inspect and measure any such holding after having given 48 hours' previous notice of their intention to the occupier thereof.

Annual value of holding now ascertained.

92. The gross annual rent at which any holding may be reasonably expected to let, shall be deemed to be the annual value thereof, and such value shall accordingly be determined by the Commissioners, and entered in the valuation-list.

Determination of rate of tax on holdings.

93. Subject to the provisions of section 77, the Commissioners, at a meeting to be held before the close of the year next preceding the year to which the rate will apply, shall determine the percentage on the valuation of holdings at which the rate shall be levied, and the percentage so fixed shall remain in force until the order of the Commissioners determining such percentage shall be rescinded, and until the Commissioners at a meeting shall determine some other percentage on the valuation of holdings at which the rate will be levied from the beginning of the next year:

Provided that, when chapters I, II and V are extended to any place, the first rate may be levied from the beginning of the quarter next after that in which the percentage has been fixed by the Commissioners at a meeting.

Preparation of valuation and rating-list.

94. As soon as possible after the percentage at which the rate is to be levied on the next year shall have been determined under the last preceding section, the Commissioners shall cause to be prepared a valuation and rating-list, which shall contain the following particulars, and any others which the Commissioners may think proper to include:—

(*a*) name of the street or road in which the holding is situated;

(*b*) number of the holding on the register;

(*c*) description of the holding;

(*d*) annual value of the holding;

(*e*) name of owner;

(*f*) amount of rate payable for the year;

(*g*) amount of quarterly instalment;

(*h*) if the holding is exempted from assessment, a note to that effect.

The rate upon holdings shall be payable in quarterly instalments by the owner of the holding.

Power to assess consolidated tax when house and land on which it stands have different owners.

95. If any house belongs to one owner, and the land on which it stands and the adjacent land which is usually occupied therewith, belongs to another, the Commissioners may value such house and land together and may impose thereon one consolidated rate.

The total amount of the rates shall be payable by the owner of the house, who shall thereafter be entitled to deduct from the rent which he pays for the land such proportion of the rate so paid by him as is equal to the proportion which such rent bears to the annual value of the holding.

If the owner of the house and the owner of the land do not agree in respect of the proportion of the rate so deducted by the owner of the house, the Commissioners shall, on the application of either party, make an award declaring the amount payable by each, and such award shall be final.

Tax due from non-resident owner may be recovered from occupier and deducted by him from rent.

96. If the sum due from the owner of any holding remains unpaid after the notice of demand has been duly served, and such owner be not resident within the municipality, or the place of abode of such owner be unknown, the same may be recovered from the occupier for the time being of such holding, who may deduct, from the next and following payments of his rent, the amount which may be so paid by or recovered from him:

Provided that no arrear of rate, which has remained due from the owner of any holding for more than 1 year, shall be so recovered from the occupier thereof.

Power of Commissioners in cases of excessive hardship.

97. Whenever, from the circumstances of the case, the levy of the rate on any holding in the municipality would be productive of excessive hardship to the person liable to pay the same, the Commissioners at a meeting may reduce the amount payable on account of such holding, or may remit the same.

Application for reduction of assessment.

98. If the value of any holding shall be diminished from any cause beyond the control of the owner thereof, the owner thereof may apply for reduction of the valuation of the same.

Power to revise valuation and assessment.

99. The Commissioners may, at any time after the publication of the notice required by section 103, value and rate any holding which was without authority omitted from the valuation and rating-list, or which has become liable to valuation and rating after the publication thereof, and may enhance the valuation and rating of any holding which may appear to have been

insufficiently valued or rated through mistake or fraud; and may re-value and re-assess the rate on any holding the value of which has been increased by additions or alterations to any building thereon.

Any rate imposed or enhancement made under this section shall take effect from the beginning of the quarter next following that in which the rate shall be imposed or enhancement made.

Power to revise assessment-list.

100. The Commissioners may at any time substitute for any name mentioned in the valuation and rating-list the name of any person to whom any holding mentioned therein shall have been transferred.

Such person shall be liable to pay the rate payable on such holding from the first day of the quarter next after the date of the transfer.

Remission and refund on account of vacant holdings.

101. When any holding has been vacant for 60 or more consecutive days during any year, the Commissioners shall remit, and, if the rate has been paid, shall refund, one-half of so much of the rate of that year as may be proportionate to the number of days the said holding has remained unoccupied; provided that the owner of such holding, or his agent, has given to the Commissioners notice in writing of the vacancy thereof.

The amount of tax to be remitted or refunded shall be calculated from the date of the delivery of such notice.

Penalty.

102. Whoever, being the owner of any holding for which a remission or refund of the rate has been made under the last preceding section, fails to give notice of the re-occupation of such holding within 10 days of such re-occupation, shall be liable to a fine not exceeding 3 times the amount of rate payable quarterly on such holding.

Of general Provisions relating to the Tax on Persons and the Rate on Holdings and to the Recovery of the same.

Publication of notice of assessments.

103. When the assessment-list of the tax upon persons or the valuation and rating-list of the rate on the annual value of holdings shall have been prepared or revised, the chairman shall sign the same, and shall cause it to be deposited in the office of the Commissioners, and shall cause the notice in form (A) or the notice in form (B) of the first schedule (as the case may be) to be published in the manner prescribed by section 365.

Application for review.

104. Any person who is dissatisfied with the amount assessed upon him, or with the valuation or rating of any holding,

or who disputes his occupation of any holding,

or his liability to be assessed or rated,

may apply to the Commissioners to review the amount of assessment, valuation or rating, or to exempt him from the assessment or rate.

Procedure

105. Every application presented under the last preceding section shall be

heard and determined by not less than 3 Commissioners who shall be appointed on that behalf by the chairman. upon review.

The Commissioners so appointed, after making such inquiries as they may deem necessary, may pass such order as they shall think fit in respect of such application.

The decision of such Commissioners, or of a majority thereof, in such cases shall be final.

106. Unless good cause shall be shewn to the satisfaction of such Commissioners for extending the time allowed, and save as is otherwise expressly provided in this Act, no such application shall be received after the expiration of 1 month from the date of publication of the notice required by section 103 relating to the list containing the assessment, valuation or rating in respect of which the application is made, or after the expiration of 15 days from the date of service of the first notice of demand for payment at the rate in respect of which the application is made, whichever period shall last expire. Limitation of time for application of review.

107. No objection shall be taken to any assessment or rating, nor shall the liability of any person to be assessed or rated be questioned, in any other manner or by any other authority than in this Act is provided. Assessment questioned only under Act.

108. By notification to be posted up in their office, the Commissioners shall declare at what hours of each day (not being a Sunday or other recognized holiday) the office shall be open for the receipt of money. Office-hours for payment of taxes.

109. The amount due by any person on account of the tax on persons, or the rate on holdings, shall be deemed to be the amount entered in the lists the notice relating to which is published under section 103, unless the amount entered in such lists is subsequently altered by the Commissioners as provided in this Act, in which case the amount to which the assessment or rating is so altered shall be deemed to be the amount due. Tax payable in advance.

Every instalment of such tax or rate shall be deemed to be due on the first day of the quarter in respect of which such instalment is payable.

110. For all sums paid on account of any tax or rate under this Act, a receipt stating the amount and the tax or rate on account of which it is paid shall be given, signed by the tax-collector or by some other officer authorized by the Commissioners to grant such receipts. Receipts to be given.

111. At any time within 6 months after any sum has become due on account of any tax or rate, the Commissioners shall cause to be served upon the person liable to the payment thereof a bill for the said sum, which shall contain a statement of the period and of the tax or rate on account of which the charge is made. Bill and notice of demand to be presented after 1 month.

If the amount mentioned in such bill be not paid on presentation thereof, a notice of demand in the form marked (A) in the second schedule, with copy

of the bill appended thereto, shall be served on the person liable to pay the same, and such notice of demand may be served at any subsequent time, provided that no charge shall be made in respect of the service of such notice.

Such notice shall be signed by the chairman or an officer authorized in that behalf, and shall be served by a person authorized to receive payment.

If not paid in 15 days, process of distress may issue.

112. If any person, after service upon him of such bill and notice, shall not, within 15 days of the service of such notice or from the date of any order made on an application for review under section 105, pay the sum due, either to the Commissioners at their office, or to some person authorized by them to receive the money, or shew to the Commissioners sufficient cause for not paying the same, the amount of the arrear due, with costs on the scale shewn in the table of fees marked (B) in the second schedule, may at any time within 3 months after the date of service of the said notice, or of the order made on an application to review as aforesaid, be levied by distress and sale of any moveable property belonging to the defaulter, except ploughs, plough-cattle, tools or implements of trade or agriculture, wherever found, or of any such moveable property, subject to the same exceptions, which may be found within the holding in respect of which such defaulter is liable to such tax or rate.

If the said property or any part thereof belong to any person other than the defaulter, the defaulter shall be liable to indemnify the owner thereof for any damage he may sustain by reason of such distress, or by reason of any payment he may make to avoid such distress or any sale under the same.

Distress how made.

113. Every warrant of distress and sale under the last preceding section shall be issued by the Commissioners, and shall be in the form marked (C) in the second schedule.

Distress shall be made by actual seizure of moveable property, and the officer charged with the execution of the warrant shall be responsible for the due custody thereof.

Such officer shall make an inventory of all moveable property seized under the warrant, and shall give not less than 10 days' previous notice of the sale, and of the time and place thereof, by beat of drum, in the municipality or ward in which the property is situated, and by serving on the defaulter a notice in the form marked (D) in the second schedule:

Provided that if the property is of a perishable nature, it may be sold, with the consent of the defaulter, at any time after the expiry of 24 hours from the seizure.

Officer may break open a door.

114. The officer charged with the execution of the warrant may, under the special order of the Commissioners, between sunrise and sunset, break open any outer or inner door or window of a house, in order to make the distress,

if he has reasonable ground for believing that such house contains any moveable property belonging to the defaulter, and if, after notification of his authority and purpose and demand of admittance duly made, he cannot otherwise obtain admittance:

Provided that he shall not enter or break open the door of any room appropriated for the zanáná, or residence of women, which by the usage of the country is considered private, except after 3 hours' notice and opportunity given for the retirement of the women.

Sale how conducted.

115. If the sum due be not paid with costs before the time fixed for the sale, or the warrant be not discharged or suspended by the Commissioners, the moveable property seized shall be sold by auction, at the time and place specified, in the most public manner possible, and the proceeds shall be applied in discharge of the arrears and costs; and the surplus, if any, shall be returned on demand to the person in possession of the moveable property at the time of the seizure; or if unclaimed for a period of 12 months, shall be transferred to the municipal fund.

Return of sales.

The tax-collector or other officer authorized in that behalf shall make a return of all such sales to the Commissioners in the form marked (E) in the second schedule.

Persons prohibited from purchasing at sales.

116. All officers and servants of the Commissioners, and all chaukidárs, constables and other officers of Police are prohibited from purchasing any property at any such sale.

Keeping account of distresses and sales.

117. The Commissioners shall cause a regular account to be kept of all distresses levied and sales made for the recovery of taxes under this Act.

Sale of property beyond limits of municipality.

118. If no sufficient goods or chattels belonging to a defaulter, or being upon the premises in respect of which he is assessed or rated, can be found within the municipality, the Magistrate may, on the application of the Commissioners, issue his warrant to any officer of his Court for the distress and sale of any personal property or effects belonging to the defaulter within any other part of the jurisdiction of the Magistrate, or for the distress and sale of any personal property belonging to the defaulter within the jurisdiction of any other Magistrate whatsoever, and such other Magistrate shall endorse the warrant so issued, and cause it to be executed, and the amount, if levied, to be remitted to the Magistrate issuing the warrant, who shall remit the same to the Commissioners.

Distress or sale not unlawful for want of form.

119. No distress or sale made under this Act shall be deemed unlawful, nor shall any party making the same be deemed a trespasser, on account of any error, defect or want of form in the bill, notice, summons, warrant of distress, inventory or other proceeding relating thereto.

Commissioners may sue instead of distraining.

120. Instead of proceeding by distress and sale, or in case of failure to realize thereby the whole or any part of any tax, the Commissioners may sue the person liable to pay the same in any Court of competent jurisdiction.

Irrecoverable taxes.

121. The Commissioners may order to be struck-off the books the amount of any tax or rate which may appear to them to be irrecoverable.

Of the Tax on Carriages, Horses and other Animals.

Tax on carriages, horses and other animals.

122. When it has been determined that a tax on carriages, horses and other animals specified in the third schedule shall be imposed, the Commissioners at a meeting shall make an order that every carriage, horse-and every other animal of the kind specified in the third schedule which is kept or habitually used within, or which is let for hire within or without, the municipality, and habitually used within it, shall pay the tax, and shall cause such order to be published in the manner prescribed by section 365.

Such order shall be published at least 1 month before the beginning of the half-year in which such tax shall first take effect; and shall specify at what rates, not exceeding the rates given in the third schedule, such tax shall be levied.

But such tax shall not be imposed on—

(*a*) horses or ponies belonging to officers doing regimental duty, at the rate of one animal for each officer;

(*b*) animals exempt from any municipal-tax under section 25 of the Indian Volunteers' Act, 1869;

(*c*) carriages or animals belonging to Government or to the municipality, or for keeping which for the execution of their duty an allowance is made by the Government or by the Commissioners to any of their officers;

(*d*) animals used by, or exclusively for the purposes of, any regiment;

(*e*) horses or ponies used by Police-officers, at the rate of not more than one for each officer;

(*f*) carriages, the wheels of which do not exceed 24 inches in diameter;

(*g*) animals under 11 hands in height;

(*h*) carriages or animals kept for sale by any *bonâ fide* dealer in such carriages or animals, and not used for any other purpose.

Tax so fixed to continue in force until altered.

123. Any order of the Commissioners imposing a tax under the last preceding section shall continue in force until rescinded, and the tax shall be levied at the rates specified in the order published as aforesaid, unless and until the Commissioners at a meeting, held not less than 15 days before the end of

the year, make and publish an order specifying any different rates at which the tax shall be payable for the ensuing year.

Licenses how obtained.

124. In any municipality in which a tax has been imposed under the last preceding section, the owner of every carriage, horse and other animal specified in the third schedule shall, within the first month of each half-year, forward to the Commissioners a statement in writing, signed by him, containing a description of the carriages, horses and other animals liable to the tax for which he is bound to take out a license.

Such owner shall at the same time pay to the Commissioners such sum as shall be payable by him for the current half-year for the carriages, horses and other animals specified in such statement, according to the rates specified in any order for the time being in force under the two last preceding sections.

Proportionate tax on carriages, &c., acquired during half-year.

125. If any person acquires possession at any time after the commencement of any half-year, of any carriage, horse or other animal specified in the third schedule, in respect of which no license has been given for such half-year, he shall forward a statement as above required within 1 month of the date on which he may have acquired possession thereof, and shall pay such amount of the tax as shall bear the same proportion to the whole tax for the half-year as the unexpired portion of the half-year bears to the half-year; and such amount shall be calculated from the date on which such person may have acquired possession as aforesaid.

On payment of tax, Commissioners to give license.

126. On receiving the amount of the tax due as aforesaid, the Commissioners, or some person authorized by them in that behalf, shall give to the person paying the same a license for the several carriages, horses and other animals for the period in respect of which the amount is received.

Such license shall be for the current half-year and no longer.

Carriage, &c., liable to tax although owner absent.

127. Whenever the owner of any carriage, horse or other animal liable to pay the said tax is not resident within the limits of the municipality to the Commissioners of which the tax is due, the person in whose immediate possession the carriage, horse or other animal is for the time being kept shall take out a license for the same.

Penalty.

128. Whoever keeps or is in possession of any carriage, horse or other animal without the license required by the three last preceding sections, shall be liable to a fine not exceeding 3 times the amount payable by him in respect of such license, exclusive of the amount so payable.

Commissioners may compound with livery-stable-keepers.

129. The Commissioners at their discretion may compound, for any period not exceeding 1 year, with livery-stable-keepers and other persons keeping carriages or animals for hire, for a certain sum to be paid for the carriages or animals so kept by such person, in lieu of the tax at the rates specified in any order made by the Commissioners under sections 122 and 123.

List of persons licensed to be prepared.

130. The Commissioners shall from time to time cause to be prepared and entered in a book, to be kept by them, and to be open to the inspection of any person interested therein, a list of the persons to whom, during the then current half-year, a license has been given, and of the carriages, horses and other animals in respect of which they have paid the tax.

Power to inspect stable, &c., and to summon persons liable to tax.

131. The Commissioners, or any person authorized by them in that behalf, may at any time between sunrise and sunset enter and inspect any stable or coach-house, or any place wherein they may have reason to believe that there is any carriage, horse or other animal liable to the tax for which a license has not been duly taken out.

And the Commissioners may summon any person whom they have reason to believe to be liable to the payment of any such tax, or any servant of such person, and may examine such person or servant as to the number and description of the carriages, horses and other animals in respect of which such person is liable to be taxed.

Refund of tax in certain cases.

132. On proof being given to the satisfaction of the Commissioners that a carriage, horse or other animal for which a license has been taken out for any half-year has ceased to be kept or to be used within the municipality during the course of such half-year, the Commissioners shall order a refund of so much of the tax for the half-year as shall bear the same proportion to the whole tax for the half-year as the period during which such carriage, horse or other animal has not been kept or used in the municipality bears to the half-year; but no such refund shall be allowed unless notice be given to the Commissioners within 1 month of the time when such use of such carriage, horse or other animal ceased, and the Commissioners shall pass no order for refund until after the close of the half-year in respect of which the refund is claimed.

Of the Registration of Carts.

Registration and number of carts.

133. The Commissioners at a meeting may make and publish an order that every cart, which is kept or habitually used within, or which is let for hire within or without, the municipality, and habitually used within it, shall be registered by the Commissioners with the name and residence of the owner, and shall bear the number of registration in such manner as the said Commissioners shall direct.

This section shall not apply to carts—

(*a*) which are the property of the Government or of the municipality;

(*b*) which are kept without the limits of the municipality, and are only temporarily and casually used within such limits;

(*c*) which are kept in Howrah or within the suburbs of Calcutta.

Fee for regis-

134. The registration of carts under the last preceding section shall be

made, and the numbers assigned yearly or half-yearly, upon such days as the Commissioners shall notify, and such fee as they shall from time to time fix and notify, not exceeding 4 rupees if the registration has effect for a year, and not exceeding 2 rupees if the registration has effect for half a year, shall be paid for each registration. tration.

135. Any person becoming possessed of any cart which has not been registered for the then current period of registration, shall register the same within 1 month of the date on which he may have become possessed thereof, and the Commissioners shall grant registration in any such case on payment of such amount of the fee as shall bear the same proportion to the whole fee for the current period of registration as the unexpired portion of the current period of registration bears to the whole of such period; and such fee shall be calculated from the date on which such person may have become possessed as aforesaid. Proportionate payment of fee.

136. When the ownership of any registered cart is transferred within any period of registration, it shall be registered anew within 1 month of the transfer in the name of the person to whom it has been transferred, and a fee not exceeding 4 annas shall be paid for every such last-mentioned registration. Transfer of ownership.

137. Whoever keeps or is in possession of a cart not duly registered as required by the three last preceding sections, shall be liable to a fine not exceeding 3 times the amount payable by him in respect of such registration, exclusive of the amount so payable; and whoever, being the owner or driver of any cart, shall fail to affix thereto the registration-number as required by section 133 shall be liable to a fine not exceeding 5 rupees. Penalty.

138. If any person owns or keeps any cart hereinbefore required to be registered without having caused the same to be registered, the Commissioners or any person authorized by them in that behalf, may seize and detain such cart (provided the same be not employed at the time of seizure in the conveyance of any passengers or goods) together with the animals drawing the same, and all Police-officers are required, on the application of the Commissioners, or of any servant of the Commissioners duly authorized in that behalf, to assist in the said seizure. Seizure and sale of unregistered cart.

After such seizure the Commissioners shall forthwith issue a notice in writing that after the expiration of 10 days they will sell such vehicle and animals by auction at such place as they may state in the notice; and if any registration-fee, together with the cost arising from such seizure and custody, remains unpaid for 10 days after the issue of such notice, the Commissioners may sell the property seized for payment of the said fee, and of all expenses occasioned by such non-payment, seizure, custody and sale.

Any balance that may remain out of the proceeds of the sale shall be returned, on demand, if made within 12 months, to the owner of the property, and if unclaimed after such period, shall be credited to the municipal fund:

Provided that if at any time before the sale is concluded the person whose cart has been seized shall tender to the Commissioners, or the person authorized by them to sell the cart, the amount of all the expenses incurred, and the registration-fee payable by him, the Commissioners shall forthwith release the cart so seized.

Notwithstanding anything contained in this section, the surplus of the sale-proceeds of a cart seized under this section may be devoted to the payment of any fine imposed under the last preceding section; and any cart which has been seized under this section may be sold for the realization of any such fine.

Of Tolls on Ferries.

Existing public ferries.

139. The Lieutenant-Governor may, with the consent of the Commissioners, make over to the Commissioners any existing public ferry within, or adjacent to the limits of, the municipality, to be administered by such municipality until the Lieutenant-Governor shall otherwise direct.

Every ferry while so administered shall be deemed to be a municipal ferry, and the profits derivable therefrom, or such part of the profits as the Lieutenant-Governor shall order, shall be carried to the credit of the municipal fund.

Other ferries may be declared to be municipal.

140. The Commissioners may also, with the sanction of the Lieutenant-Governor, declare that any other ferry within or adjacent to the limits of the municipality is a municipal ferry, and the profits derivable therefrom shall thenceforward be carried to the credit of the municipal fund:

provided that due compensation shall be made by the municipality to any person for the loss which he may have sustained in consequence of such ferry being declared to be a municipal ferry.

The amount of compensation due in such cases shall be ascertained and awarded by the Magistrate under the provisions of section 4 of Bengal Act I of 1866[a] (*to amend certain provisions of Regulation VI of 1819*) or any similar law for the time being in force.

Duties of Commissioners in regard to such ferries.

141. Every municipal ferry shall be maintained by the Commissioners, and they shall do all things necessary to provide for the safety and convenience of travellers, and the safety of property to be conveyed in such ferry.

Rate of tolls

142. When it has been determined to impose tolls on municipal ferries,

[a] See *supra*, p. 510.

the Commissioners at a meeting shall make and publish an order specifying the ferries, and, with the sanction of the Lieutenant-Governor, the rates, at which such tolls shall be levied. to be established and published.

Such rates may from time to time be varied with the like sanction.

143. No person shall be liable to pay any toll for crossing any river or stream at or near a municipal ferry unless he avails himself of the means provided by the Commissioners for crossing such river or stream. When persons crossing river not liable to toll.

144. Every lease of a ferry given by the Commissioners as hereinafter provided shall be liable to be cancelled at once, if it shall appear to the Commissioners at a meeting that the lessee has failed to make due provision for the convenience or safety of the public within 15 days after being required to do so by a notice in writing from the Commissioners. Cancellation of ferry-lease, &c.

On the cancelment of a lease, the Commissioners may take possession of all boats and other appliances which have been used by the lessee in the working of the ferry; and may either retain the same permanently on payment of a fair price to the proprietor, or may retain them for such time as may be necessary, not exceeding 3 months, until they can make arrangements for such other boats and appliances as may be necessary, in which case the Commissioners shall pay a fair price to the owners for the use of the said boats and appliances:

Provided that within a week of taking such possession the Commissioners shall be bound to give notice to the said lessee of their intention to retain the said boats and appliances permanently, or of the period during which they intend to retain them, as the case may be.

145. Any collector or lessee of tolls, or his agent, may refuse to convey any person or goods across a municipal ferry until the proper toll has been paid, and may require any person who refuses to pay the toll to leave the boat and to remove his goods from it. Toll must be prepaid.

Any person who refuses to leave a municipal ferry-boat or to remove his goods therefrom when required to do so under this section, shall be liable to a fine not exceeding 10 rupees. Penal

146. No person shall keep a ferry-boat for the purpose of plying for hire within a distance of 2 miles above or below any municipal ferry without the previous sanction Keeping of unauthorized ferry.

of the Commissioners, if he plies within the limits of the municipality,

of the Magistrate of the district, if without such limits,

or of the Magistrate of the district and the Commissioners, if one of the two banks between which he plies is within, and the other bank is without, such limits.

This section shall not apply to any private ferry which may be in existence at the commencement of this Act.

Penalty.

147. Whoever keeps a ferry-boat contrary to the provisions of the last preceding section, shall be liable to a fine not exceeding 50 rupees, and to a further fine, not exceeding 10 rupees, for each day during which the offence is continued after he has been required by a notice in writing to desist from such offence.

Of Tolls on Bridges and Roads.

Existing toll-bars.

148. The Lieutenant-Governor may, with the consent of the Commissioners, make over to the Commissioners any existing toll-bar within the limits of the municipality, to be administered by the municipality until the Lieutenant-Governor shall otherwise direct; every toll-bar while so administered shall be deemed to be a municipal toll-bar, and the profits derivable from it, or such part thereof as the Lieutenant-Governor shall direct, shall be carried to the credit of the municipal fund.

Commissioners may establish toll-bar.

149. The Commissioners at a meeting, with the sanction of the Lieutenant-Governor, may establish a toll-bar and levy tolls on any bridge or metalled road which they may have constructed after the commencement of this Act, or at any place within the municipality adjacent to such bridge or metalled road at which tolls may conveniently be levied on vehicles and animals passing over such bridge or road; and the profits derived therefrom shall be carried to the credit of the municipal fund:

Provided that no such toll-bar shall be established, or tolls levied, otherwise than for the purpose of recovering the expenses incurred in constructing such bridge or road, and in maintaining such bridge or road in repair for the 5 years next after the construction thereof, together with interest on such expenses as hereinafter provided.

Commissioners to publish expenses, &c., of toll-bars.

150. Whenever a toll-bar shall have been established, and tolls shall be levied as provided in the last preceding section, the Commissioners shall at the end of each year publish, by causing it to be posted up at their office, an abstract account showing—

(1) the amount of expenses incurred in the construction of such bridge or road, and in the maintenance of the same;

(2) the amount of interest which has accrued due thereon, at the annual rate of 6 per centum; and

(3) the amount which has been received from the profits of the said toll-bar since its establishment;

and as soon as such expenses and interest shall have been recovered as aforesaid, such toll-bar shall be removed, and tolls shall no longer be levied on such bridge or road.

Rates of tolls to be established and published.

151. When it has been determined that tolls shall be levied on any such bridge or road, the Commissioners at a meeting shall make and publish an order, with the sanction of the Lieutenant-Governor, specifying the rates at which such tolls shall be levied.

Such rates may from time to time be varied with the like sanction.

Power to refuse to allow passage without payment.

152. Any Collector or lessee of tolls may refuse to allow any person to pass through any municipal toll-bar until the proper toll has been paid.

Penalty for refusing or avoiding payment of toll.

153. Whoever, having driven any vehicle or animal (not exempted from toll) through a toll-gate, refuses to pay the toll, or with intent to evade payment of the toll fraudulently avoids passing through such toll-gate, shall be liable to a fine not exceeding 50 rupees.

In case of non-payment of toll, vehicle, &c., may be seized and sold.

154. If the toll due on any vehicle or animal is not paid on demand, the person authorized to collect the same may seize such vehicle or animal, or any part of its burden, of sufficient value to defray the toll, and shall give immediate notice of such seizure to the Commissioners.

After such seizure the Commissioners shall forthwith issue a notice in writing that after the expiration of 10 days they will sell the property seized by auction at such place as they may state in the notice; and if any toll, together with the cost arising from such seizure and custody, remain undischarged for 10 days after the issue of such notice, the Commissioners may sell the property seized for discharge of the toll, and of all expenses occasioned by such non-payment, seizure, custody and sale.

Any balance that may remain out of the proceeds of the sale shall be returned, on demand, if made within 12 months, to the owner of the property, and if unclaimed after such period shall be credited to the municipal fund:

Provided that if, at any time before the sale has been concluded, the person whose property has been seized shall tender to the Commissioners, or the officer appointed by them to sell the property, the amount of all the expenses incurred and of the toll payable by him, the Commissioners shall forthwith release the property seized.

Notwithstanding anything contained in this section, the surplus of the sale-proceeds of any property seized under this section may be devoted to the payment of any fine imposed under the last preceding section; and any property which has been seized under this section may be sold for the realization of any such fine.

Of General Provisions relating to Tolls on Ferries and Roads.

Lease of ferry or toll-bar.

155. The Commissioners may grant a lease of any municipal ferry or toll-bar for any period not exceeding 3 years.

Table of tolls to be hung up.

156. A table of tolls legibly written in the vernacular of the district shall be hung up

in some conspicuous position at each end of every municipal ferry,

and in some conspicuous position near every municipal toll-bar, so as to be easily read by all persons required to pay the toll.

Penalty.

157. Whoever, being a toll-collector or lessee of a municipal ferry or toll-bar, neglects to hang up a table of tolls as required by the last preceding section, shall be liable to a fine not exceeding 50 rupees, and to a further fine, not exceeding 10 rupees, for each day during which the offence is continued after he has been required by a notice in writing to desist from such offence.

Composition in respect of toll.

158. The Commissioners, or the lessee of any municipal ferry or toll-bar, may compound with any person for a certain sum to be paid by such person for himself, or for any vehicles or animals kept by him, in lieu of the ordinary toll payable.

Exemptions.

159. No tolls shall be paid for the passage of troops on the march, or of animals or vehicles employed in the transport of such troops,

or of military or Government stores, or the persons in charge of them,

or of military or Police-officers, or of any public or municipal officer on duty, or of any person in their custody, or of any property belonging to them or in their custody, or of any vehicle or animal employed by such persons for the transport of such property,

or of conservancy-carts or other vehicles, or animals belonging to the Commissioners, or of the persons in charge of them.

or of any animals whether belonging to Government or otherwise, which are attached to a regiment or a Military Department, and which pass through a toll-bar; provided that tolls shall be leviable for conveying such animals over a ferry;

and the Commissioners or their lessees shall not be bound to allow any person or thing not specified above to cross a ferry or to pass a toll-gate without payment of the prescribed toll;

But the Commissioners at a meeting may exempt any other class of persons or things from payment of the said toll; and in granting a lease of any ferry or toll-bar may stipulate that any municipal servants and property and any other persons or things shall be allowed to pass without payment of the toll.

Police-officers to assist.

160. In all cases of resistance to the person authorized to collect tolls, Police-officers shall assist when required, and for that purpose shall have the same powers as they have in the exercise of their ordinary Police-duties.

Penalty for

161. Whoever, being authorized under this Act to collect tolls, demands

or takes any higher tolls than the tolls authorized under this Act, shall be liable to a fine not exceeding 50 rupees, and in default of payment to one month's imprisonment. taking unauthorized tolls.

Of Tolls on Navigable Channels.

162. If the Lieutenant-Governor has declared that the provisions of the Canals' Act, 1864, or any other similar law for the time being in force, are applicable to any navigable channel which passes through the limits of a municipality, he may, with the consent of the Commissioners, appoint the Commissioners to collect tolls as provided in section 8 of the said Act until the Lieutenant-Governor shall otherwise direct, and the profits derivable therefrom, or such part thereof as the Lieutenant-Governor may direct, shall be carried to the credit of the municipal fund. Commissioners may be appointed to collect tolls in navigable channel.

In such case the Commissioners shall exercise all the powers vested by such Act in the Collector.

163. The Lieutenant-Governor may at any time order that the Commissioners, or any person authorized by them, shall cease to levy any tolls under the last preceding section, and may at any time withdraw such order; provided that reasonable compensation shall be paid by the Commissioners to any farmer or other person who has entered into a legal contract with the Commissioners for the collection of such tolls, and whose profits under such contract are diminished by an order of the Lieutenant-Governor passed under this section. Lieutenant-Governor may order Commissioners to cease levying tolls.

PART V.

Of the Municipal Police.

164. All Police-officers appointed or employed in any municipality shall be appointed under the provisions of Act V of 1861[a] (*for the Regulation of Police*) or of any similar Act for the time being in force for the regulation of the Police in the Police-district within which the municipality may be situated, and shall be deemed to be a portion of the Police-establishments under the Government of Bengal, and shall be subject to the provisions of any such Act, except as hereinafter provided. Police in municipalities to be appointed under Act V of 1861.

165. Except as provided in the next succeeding section, no Police-officer who forms part of the strength of the municipal Police for which the estimate mentioned in section 167 may have been calculated, shall be liable to serve beyond the limits of the municipality save in execution of duties imposed on him by his employment as a Police-officer of such municipality. Police paid under Act not to be employed beyond municipality.

[a] See General Acts, vol. I, p. 517.

Conditions under which Police may be deputed beyond municipal limits.

166. Whenever it shall appear to the Magistrate or to the District Superintendent of Police that it is necessary for the peace and good management of the district in which any municipality is situated or of any other district, that one or more members of the municipal Police-force shall be specially deputed to any duty beyond the limits of such municipality, not being a duty imposed on him or them by their employment as Police-officers of such municipality, the Magistrate or District Superintendent may depute such member or members to such duty, which they shall be bound to perform:

Provided that during such deputation the District Superintendent of Police shall make due provision for the efficient performance of Police-duties within the municipality.

In case of and during such deputation, the salaries of the members of the Police so deputed, and all other expenses incurred by their deputation, shall be paid by the Local Government and not by the Commissioners.

Preparation of Police-estimate.

167. From the commencement of this Act, every District Superintendent of Police shall prepare, in such form as may be directed by the Lieutenant-Governor, an estimate of the income and expense of the Police-force in every municipality within his district for the year next following the preparation of such estimate, and shall present the same to the Commissioners of such municipality at least 4 months before the beginning of the year to which the estimate relates.

Contents of estimate.

168. The Police-estimate shall shew the number, constitution and salaries of the Police-force to be maintained in any such municipality.

Estimate to be translated and considered by Commissioners.

169. After the receipt of the Police-estimate, the Commissioners shall cause the same to be translated into the language usually spoken in such municipality, and such translation shall be made available for inspection by any tax-payer.

The estimate shall also be laid before the Commissioners at their next meeting for consideration.

Estimate to be transmitted to Magistrate and Commissioner of division.

170. After such meeting, the Commissioners shall transmit the Police-estimate, together with any remarks or objections which the Commissioners at the meeting may record, to the Magistrate of the district for transmission to the Commissioner of the division, and by him to the Lieutenant-Governor.

Lieutenant-Governor to decide on estimate.

171. The Lieutenant-Governor shall consider the Police-estimate so transmitted to him, and may approve, reject or modify, and approve as modified, the same or any part thereof.

The Lieutenant-Governor shall also determine whether the whole or some, and what, part of the expense of the Police provided for in such estimate shall be borne by the municipality to which the same refers:

provided that the expense so to be borne by any municipality in which

the tax on persons is in force shall not exceed, for a first class municipality, the average rate of one rupee and eight annas in the year, and for a second class municipality the average rate of one rupee and four annas in the year, for each holding in respect of the occupation of which the tax is imposed:

and provided that the expense so to be borne by any municipality in which the tax on the value of holdings is in force shall not exceed 5 per centum on the total annual value of such holdings.

Amount of estimate to be deemed expense of Police-force.

172. So much of the Police-estimate as the Lieutenant-Governor may determine to be borne by any municipality shall, for the purposes of this Act, be the expense of the Police to be borne by such municipality for the year for which the Police-estimate shall have been presented.

The amount which may be finally settled shall be entered in the estimates of the municipality as prepared under section 64.

Police to be paid monthly.

173. At the close of each month, the District Superintendent of Police shall cause to be prepared and laid before the Commissioners a bill shewing the actual expenses incurred during the month in the payment of the Police-force, and the contingent expenses thereof; and, so far as the same is in accordance with the Police-estimate, the Commissioners shall cause the amount, or the share thereof which is payable by them under the last preceding section, to be paid from the municipal fund.

Magistrate may be vested with functions of District Superintendent.

174. The Lieutenant-Governor may at any time direct that the Magistrate in charge of any division of a district shall be deemed to be the District Superintendent of Police in respect of the Police of any municipality within his division, or may direct that such Magistrate shall exercise any of the functions of District Superintendent of Police in regard to the Police of any such municipality.

Saving of authority of Commissioner of Calcutta Police in suburbs.

175. Nothing in this Act shall deprive the Commissioner of Police for the town of Calcutta of any power or authority over the Police in the suburbs of Calcutta vested in him by Bengal Act II of 1866[a] (*for the better regulation of the Police within the suburbs of the town of Calcutta*).

And the Inspector-General of Police is hereby precluded from exercising over the Police within the said suburbs any of the powers and authorities vested in him by the said Act V of 1861.

District Superintendent for suburbs.

176. The Deputy Commissioner of Police for the suburbs of Calcutta shall, for the purposes of this Act, be deemed to be the District Superintendent of the said suburbs.

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[a] See *supra*, p. 511.

PART VI.

OF MUNICIPAL REGULATIONS WHICH SHALL BE GENERALLY IN FORCE IN ALL MUNICIPALITIES.

General.

Operation of this Part.

177. The provisions of this Part shall be in force in every municipality, unless and until the Lieutenant-Governor shall otherwise direct.

Power to order provisions of Part to be not in force in municipality.

178. The Lieutenant-Governor may at any time make an order directing that all or any of the said provisions shall not be in force in any municipality, or in any part thereof; and the provisions mentioned in such order shall cease to be in force in such municipality or part thereof from the date specified in such order.

The Lieutenant-Governor may at any time cancel or modify any order made under this section.

Procedure when owners or occupiers required by Commissioners to execute works.

179. Whenever it is provided in this Part or in Part VII that the Commissioners or the Commissioners at a meeting may require the owners or the occupiers, or may require the owners and the occupiers, of any land to execute any work or to do anything within a specified time, such requisition shall be made, as far as possible, by a notice to be served as provided in sections 367 and 368 on every owner or occupier who is required to execute such work or to do such thing; but if there be any doubt as to the persons who are owners or occupiers, such requisition may be made by a notification to be posted up on or near the spot at which the work is required to be executed or the thing done, requiring the owners or the occupiers, or requiring the owners and occupiers, to execute such work or to do such thing within a specified time; and in such notification it shall not be necessary to name the owners or occupiers.

Every requisition as aforesaid shall give notice to the persons to whom it is addressed that, if they fail to comply with the requisition, or to prefer an objection against such requisition as provided in the next succeeding section, the Commissioners will enter upon the land and cause the required work to be executed or the required thing to be done, and that in such case the expenses incurred thereby will be recovered from the persons who are required in such requisition to execute such work or do such thing.

Person required to execute work may prefer objection to Commissioners.

180. Any person who is required by a requisition as aforesaid to execute any work or to do anything, may, instead of executing the work or doing the thing required, prefer an objection in writing to the Commissioners against such requisition within 5 days of the service of the notice or posting up of the notification containing the requisition; or if the time within which he is required to comply with the requisition be less than 5 days, then within such less time.

Except as provided in the next succeeding section, such objection shall be heard and disposed of by the chairman or vice-chairman.

Procedure if person objecting alleges that work will cost more than Rs. 300.

181. If the objection shall allege that the cost of executing the work or of doing the thing required will exceed 300 rupees, such objection shall be heard and disposed of by the Commissioners at a meeting, unless the chairman or vice-chairman shall certify that such cost will not exceed 300 rupees, in which case the objection shall be heard and disposed of by the chairman or vice-chairman:

Provided that in any case in which the chairman or vice-chairman shall have certified his opinion as aforesaid, and the objection shall in consequence thereof have been heard and disposed of by the chairman or vice-chairman, the person making the objection may, if the requisition made upon him is not withdrawn on the hearing of his objection, pay in the said sum of 300 rupees to the Commissioners as the cost of executing the work or the thing required; whereupon such person shall be relieved of all further liability and obligation in respect of executing the work or doing the thing required, and in respect of paying the expenses thereof; and the Commissioners themselves shall execute such work or do such thing, and shall exercise all powers necessary therefor.

Chairman, &c., may make order after hearing objection.

182. The chairman or vice-chairman, or the Commissioners at a meeting, as the case may be, shall, after hearing the objection and making any inquiry which they may deem necessary, record an order withdrawing, modifying or making absolute the requisition against which the objection is preferred, and if such order does not withdraw the requisition, it shall specify the time within which the requisition shall be carried out, which shall not be less than the shortest time which might have been mentioned under this Act in the original requisition.

Order to be explained orally.

183. If the person making such objection be present at the office of the Commissioners, the said order shall be explained to him orally; and if such order cannot be so explained, notice of such order shall be served as provided in section 367 on the person making the objection; and such explanation of, or service of the notice of, the said order shall be deemed a requisition duly made under this Act to execute the work or do the thing required.

Power of Commissioners on failure of person to execute work.

184. If the person or persons required to execute the work or to do the thing fail, within the time specified in any requisition as aforesaid, to begin to execute such work or to do such thing, and thereafter diligently to continue the same to the satisfaction of the Commissioners until it is completed, the Commissioners or any person authorized by them in that behalf may, after giving 48 hours' notice of their intention by a notification to be posted

up on or near the spot, enter upon the land and perform all necessary acts for the execution of the work or doing of the thing required;

and the expenses thereby incurred shall be paid by the owners or by the occupiers, if such requisition was addressed to the owners or to the occupiers respectively, and by the owners and the occupiers, if such requisition was addressed to the owners and the occupiers.

Commissioners may apportion expenses among owners.

185. Whenever any expenses incurred by the Commissioners are to be paid by the owners of any land as provided in the last preceding section, the Commissioners may, if there be more than one owner, apportion the said expenses among such owners in such manner as to the Commissioners may seem fit.

And whenever any such expenses are to be paid by the occupiers of any land, as provided in the last preceding section, the Commissioners may, if there be more than one occupier, apportion the said expenses among such occupiers in such manner as to the Commissioners may seem fit.

Apportionment among owners and occupiers.

186. Whenever any expenses incurred by the Commissioners are to be paid by the owners and occupiers of any land, as provided in section 184, the Commissioners may apportion the said expenses among the said owners and occupiers in such manner as to the Commissioners may seem fit.

Recovery of expenses incurred or fee chargeable.

187. Any expenses incurred, or fee chargeable, by the Commissioners under this Part or Part VII, may be recovered from the person liable to pay the same as an arrear of tax under sections 111 to 120 (both inclusive).

The demand for such expenses or fee shall be made by notice at any time within 3 months from the date on which the amount thereof shall have been ascertained.

Occupier may recover from owner cost of works executed at his expense.

188. Whenever any works or any alterations and improvements of which the Commissioners are authorized by this Part or Part VII to require the execution, are executed by the occupier on the requisition of the Commissioners, or are executed by the Commissioners, and the cost thereof is recovered from the occupier, the cost thereof may, if the Commissioners shall certify that such cost ought to be borne by the owner, be deducted by such occupier from the next and following payments of his rent due or becoming due to such owner, or may be recovered by him in any Court of competent jurisdiction.

Liability to pay expenses or fees may be contested in civil Court.

189. Any owner or occupier of land may contest his liability to pay any expenses or fees under this Part or Part VII, or may contest the amount which he has been called upon to pay, in a civil Court of competent jurisdiction; provided that the fact of such action having been instituted shall be no bar to the recovery of the said amount in the manner provided by section 187.

Damages and compensation

190. Where any damages or compensation are by this chapter directed to be paid by the Commissioners, the amount and, if necessary, the apportion-

ment of the same, in case of dispute, shall be ascertained and determined by a civil Court of competent jurisdiction. how determined.

191. In any such case which is to be determined by such Court, such Court may, on the application of either party, summon the other party to appear at a time and place to be named in such summons. Method of proceeding before Court.

Upon the appearance of the parties, or, in the absence of any of them, upon proof of due service of the summons, such Court may hear and determine such question, and for that purpose may examine such parties or any of them, and their witnesses, on oath or affirmation, and the costs of every such inquiry shall be in the discretion of such Court, which shall determine the amount thereof.

192. If the amount of damages or compensation ascertained in the manner above described be not paid by the party liable to pay the same within 7 days after demand, such amount may be recovered under a warrant of such Court by distress and sale of the moveable property of such party; and the surplus arising from the sale thereof, after satisfying such amount and the costs of the distress and sale, shall be returned on demand to the party whose property shall have been distrained. Recovery of damages by distress.

Of offensive Matter, Rubbish, Privies and Drains.

193. The Commissioners shall provide all establishments, cattle, carts and implements required for the removal of offensive matter and rubbish. Establishments for removal of rubbish.

194. The Commissioners at a meeting may, from time to time, by an order published as prescribed in section 365, appoint the hours within which it shall be lawful to remove offensive matter and the manner in which the same shall be removed, and may provide places convenient for the deposit thereof, and may require the occupiers of houses to cause the same to be deposited daily, or at other stated intervals, in such places, and may remove the same at the expense of the occupier from any house if the occupier thereof fails to do so in accordance with this Act. Hours and mode of removal of offensive matter and rubbish.

195. Whenever such order shall have been published, no mehtar, nightman or other servant of the Commissioners employed to remove offensive matter, shall withdraw from his duties without the permission of the Commissioners, unless he has given notice in writing not less than one month previously of his intention so to withdraw. Mehtars to give one month's notice if they leave service of Commissioners.

Any mehtar, nightman or other such person who after the said publication withdraws from his duties without giving such notice as aforesaid, shall be liable to rigorous imprisonment for a term not exceeding one month, and shall forfeit all salary which may be due to him.

Commissioners may appoint hours for placing rubbish on public road.

196. The Commissioners at a meeting may from time to time, by an order published as prescribed in section 365, appoint the hours within which only every occupier of any house or land may place rubbish on the public road adjacent to his house or land in order that such rubbish may be removed by the Commissioners, and the Commissioners may charge such fees as they may think fit in respect of the removal of such rubbish, with the consent of the occupier of any house or land, from such house or land, or in respect of the removal from such public road of any rubbish which has accumulated in the exercise of a trade or business.

Penalty.

197. Whenever any order as provided in the last preceding section shall have been published in a municipality, every occupier of any house or land who shall place or who shall allow his servants to place rubbish on a public road at other than the appointed times, shall be liable to a fine not exceeding 20 rupees.

Penalty on occupier of house not removing filth.

198. Whoever, being the occupier of a house in or near any public road, keeps or allows to be kept for more than 24 hours, otherwise than in some proper receptacle, any dirt, dung, bones, ashes, night-soil or filth, or any noxious or offensive matter, in or upon such house, or in any out-house, yard or ground attached to and occupied with such house, or suffers such receptacle to be in a filthy or noxious state, or neglects to employ proper means to cleanse the same, shall be liable to a fine not exceeding 50 rupees.

Drains, &c., under control of Commissioners.

199. All drains, privies and cesspools shall be under the survey and control of the Commissioners.

Inspection of drains, privies and cesspools.

200. The Commissioners or any officer authorized by them in that behalf, may inspect all privies, drains and cesspools at any time between sunrise and sunset, after 6 hours' notice in writing to the occupier of any premises in which such privies, drains or cesspools are situated, and may, if necessary, cause the ground to be opened where they or he may think fit for the purpose of preventing or removing any nuisance arising from such privies, drains or cesspools; and the expenses thereby incurred shall be paid by the owner or occupier of such premises.

Common privies.

201. The Commissioners may provide and maintain, in sufficient numbers and in proper situations, common privies and urinals for the separate use of each sex, and shall cause the same to be kept in proper order and to be properly cleansed.

Licensing of public necessaries.

202. The Commissioners may license such necessaries for public accommodation as they from time to time may think proper; and whoever shall keep any public necessary without such license, or having a license for a public necessary shall suffer the same to be in a filthy or noxious state, or shall

neglect to employ proper means for cleansing the same, shall be liable to a fine not exceeding 50 rupees, and such license may be withdrawn.

Penalty for not keeping drain, &c., in proper state.

203. Whoever, being the owner or occupier of any private drain, privy or cesspool, shall neglect or refuse, after warning from the Commissioners, to keep the same in a proper state, shall be liable to a fine not exceeding 50 rupees.

Power to require owners to clear noxious vegetation and to improve bad drainage.

204. Whenever any land being private property, or within any private enclosure, appears to the Commissioners, by reason of thick or noxious vegetation or jungle, to afford facilities for the commission of a nuisance, or by want of drainage to be in a state injurious to health or offensive to the neighbourhood, the Commissioners may require the owners or occupiers, or the owners and occupiers of such land, within 15 days, to clear and remove such vegetation or drain such land:

Provided that if for the purpose of effecting any drainage under this section it shall be necessary to acquire any land not being the property of the person who is required to drain his land, or to pay compensation to any other person, the Commissioners shall provide such land and pay such compensation.

Penalty.

205. Whoever, being an owner or occupier of land, fails to comply with the requisition mentioned in the last preceding section, shall be liable to a fine not exceeding 100 rupees, and to a further fine, not exceeding 20 rupees, for each day during which the offence is continued after he has been convicted of such offence.

Rubbish collected to be property of Commissioners.

206. All rubbish and offensive matter collected by the Commissioners from roads, privies, sewers, cesspools and other places, shall be the property of the Commissioners, who shall have power to sell or otherwise dispose of the same; and the money arising from the sale thereof shall be carried to the credit of the municipal fund.

Sewers, drains, &c., under control of Commissioners.

207. All existing public sewers, drains and other conservancy-works, shall be under the direction and control of the Commissioners, who shall have power to construct any further works of that nature which they may consider necessary.

Of Bathing and Washing-places and Tanks.

Direction and control of public streams, &c.

208. All streams, channels, water-courses, tanks, reservoirs, springs and wells, not being private property, shall, for the purposes of this Act, be under the direction and control of the Commissioners.

Bathing-places, &c.

209. The Commissioners may, by order published at such places as they may think fit, set apart convenient tanks, or parts of rivers, streams or channels, not being private property, for the supply of water for drinking and for culinary purposes, and may prohibit therein all bathing, washing of clothes and

animals, or other acts calculated to pollute the water set apart for the purposes aforesaid;

and may similarly set apart a sufficient number of the same for the purposes of bathing;

and a sufficient number for washing animals or clothes, or for any other purpose connected with the health, cleanliness or comfort of the inhabitants.

Penalty.

210. Whoever disobeys an order passed by the Commissioners under the last preceding section, shall be liable to a fine not exceeding 50 rupees.

Power to require unwholesome tanks on private premises to be cleansed or drained.

211. The Commissioners at a meeting may require the owners or occupiers, or the owners and occupiers, of any land, within 8 days, to cleanse any private tank or pool therein, and to drain-off and remove any waste or stagnant water which may appear to be injurious to health or offensive to the neighbourhood:

Provided that if for the purpose of effecting any drainage under this section it shall be necessary to acquire any land not being the property of the person who is required to drain his land, or to pay compensation to any other person, the Commissioners shall provide such land and pay such compensation.

Penalty.

212. Whoever, being an owner of land, fails to comply with a requisition under the last preceding section, shall be liable to a fine not exceeding 100 rupees, and to a further fine, not exceeding 20 rupees, for each day during which the offence is continued after he has been convicted of such offence.

Of Obstructions and Encroachments on Roads.

Power to close road or part of road for public purpose.

213. The Commissioners may close temporarily any road or part of a road for the purpose of repairing such road, or for the purpose of constructing any sewer, drain, culvert or bridge, or for any other public purpose.

Whenever, owing to such repairs or constructions, or from any other cause, any road or part of a road shall be in a state which is dangerous to passengers, the Commissioners shall cause sufficient barriers or fences to be erected for the security of life and property, and shall cause such barriers or fences to be sufficiently lighted from sunset to sunrise.

Penalty for erecting obstruction on road, drain, &c.

214. Whoever, without the permission of the Commissioners, by making any excavation or erecting any wall, fence, rail, post or other obstruction, encroaches upon any drain, sewer or aqueduct, shall be liable to a fine not exceeding 50 rupees.

Removal of future obstructions or encroachments in road.

215. The Commissioners may issue a notice requiring any person to remove any wall which he may have built, or any fence, rail, post or other obstruction or encroachment which he may have erected, in or on any road or open drain, sewer or aqueduct, after the date on which the District Municipal Improvement

Act, 1864, or the District Towns Act, 1868, as the case may be, took effect in the municipality; or in case neither of the said Acts was in force in the municipality before the commencement of this Act, then after the date on which this Act may have been extended thereto; and if such person shall fail to comply with such requisition within 8 days of the receipt of the same, the Magistrate may, on the application of the Commissioners, order that such obstruction or encroachment be removed; and thereupon the Commissioners may remove any such obstruction or encroachment; and the expenses thereby incurred shall be paid by the person who erected the same.

No person shall be entitled to compensation in respect of the removal of any wall, fence, rail, post or other obstruction under this section.

Penalty.

216. Whoever fails to comply with a requisition under the last preceding section, within the period specified in such requisition, shall be liable to a fine not exceeding 50 rupees, and to a further fine, not exceeding 10 rupees, for each day after the expiration of 8 days from the issue of such requisition, until the wall, fence, rail, post or other obstruction or encroachment is removed.

Procedure when person who erected obstruction cannot be found.

217. If the person who built or erected the said wall, fence, rail, post or other obstruction or encroachment is not known or cannot be found, the Commissioners may cause a notice to be posted up in the neighbourhood of the said wall, fence, rail, post or other obstruction or encroachment, requiring any person interested in the same to remove it, and it shall not be necessary to name any person in such requisition; and if the said wall, fence, rail, post or other obstruction or encroachment be not removed in compliance with the requisition contained in such notice within 8 days of the posting up of the same, the Magistrate may, on the application of the Commissioners, order that such obstruction or encroachment be removed; and thereupon the Commissioners may remove any such obstruction or encroachment and may recover the cost of such removal by sale of the materials so removed.

Any surplus of such sale-proceeds shall on demand be restored to the owners of such materials, and, if unclaimed, shall, after the lapse of one year, be carried to the credit of the municipal fund.

Projections from houses erected in future to be removed.

218. The Commissioners may give notice in writing to the owner or occupier of any house requiring him to remove or alter any projection, encroachment or obstruction erected or placed against or in front of such house which may have been so erected or placed after the date on which the District Municipal Improvement Act, 1864, or the District Towns Act, 1868, as the case may be, took effect in the municipality, or in case neither of the said Acts was in force in the municipality before the commencement of this Act, then after the date on which this Act may have been extended thereto, if the same

overhangs the road, or juts into, or in any way projects or encroaches upon, or is an obstruction to the safe and convenient passage along, any road;

or obstructs or projects or encroaches into or upon any aqueduct, drain or sewer in such road;

and if such owner or occupier shall fail to comply with such requisition within 8 days of the receipt of the same, the Magistrate may, on the application of the Commissioners, order that such projection, encroachment or obstruction be removed or altered, and thereupon the Commissioners may remove or alter such projection, encroachment or obstruction, and the expenses thereby incurred shall be paid by the owner or occupier so making default.

No person shall be entitled to compensation in respect of the removal of any projection, obstruction or encroachment under this section.

Penalties.

219. Whoever fails to comply with a requisition under the last preceding section, within the period specified in such requisition, shall be liable to a fine not exceeding 50 rupees, and to a further fine, not exceeding 10 rupees, for each day after the expiration of 8 days from the issue of such requisition until the projection, encroachment or obstruction is removed.

Effect of order under sections 215, 217, 218.

220. Every order made by the Magistrate under section 215, section 217 or section 218, shall be deemed to be an order made by him in the discharge of his judicial duty, and the Commissioners shall be deemed to be persons bound to execute such orders of a Magistrate within the meaning of Act XVIII of 1850 [a] (*for the protection of Judicial Officers*).

Houses projecting beyond line of road when taken down to be set back.

221. Whenever any house, part of which projects beyond the regular line of a road, or beyond the front of the house on either side thereof, shall be burnt down or otherwise destroyed, or shall be taken down in order to be rebuilt or repaired, the Commissioners may require the same to be set back to, or beyond the line of, the road, or the line of the adjoining house, and shall make reasonable compensation to the owner of such house for any damage he may thereby sustain.

Power to trim hedges and trees bordering roads.

222. The Commissioners may require the owner or occupier of any land within 3 days to trim or prune the hedges bordering on any road, and to cut and trim any trees overhanging any road and obstructing the same or causing damage thereto.

Penalty.

223. Whoever fails to comply with a requisition under either of the two last preceding sections, shall be liable to a fine not exceeding 50 rupees, and to a further fine not exceeding 10 rupees, for each day during which he fails to obey such order after he has been required to obey the same.

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[a] See General Acts, vol. I, p. 89.

Of General Conservancy and Improvement.

Wells, tanks, &c., to be secured.

224. If any well, tank or other excavation, whether on public or private ground, be, for want of sufficient repairs or protection, dangerous to passengers, the Commissioners shall forthwith, if it appears to them to be necessary, cause a temporary hoard or fence to be put up for the protection of passengers, and may require the owners or occupiers, or the owners and occupiers, of the land on which such tank, well or other excavation is situated, forthwith properly to secure or protect such well, tank or other excavation.

Penalty.

225. Whoever fails to comply with a requisition under the last preceding section shall be liable to a fine not exceeding 100 rupees, and to a further fine, not exceeding 20 rupees, for each day during which the offence is continued after he has been convicted of such offence.

Houses, &c., in ruinous or dangerous state.

226. If any house, wall, structure or anything affixed thereto be deemed by the Commissioners to be in a ruinous state, or in any way dangerous, they shall forthwith, if it appears to them to be necessary, cause a proper hoard or fence to be put up for the protection of passengers, and may require the owners or occupiers, or the owners and occupiers, of the land to which such house, wall or structure is affixed forthwith to cause such repairs to be made to such house, wall or structure as they may consider necessary for the public safety, or to remove such house, wall, structure or thing affixed thereto.

Penalty.

227. Whoever fails to comply with a requisition under the last preceding section, shall be liable to a fine not exceeding 100 rupees, and to a further fine not exceeding 20 rupees, for each day after the expiration of 8 days from the issue of the requisition until the said house, wall or structure is secured or taken down.

Power to enter upon possession of houses so repaired.

228. If the Commissioners shall have caused any repairs to be made to any house or other structure, and if such house or other structure be unoccupied, the Commissioners may enter upon possession of the same, and may retain possession thereof until the sum expended by them on the repairs be paid to them.

Sale of materials of houses, &c., pulled down.

229. The materials of anything which shall have been pulled down or removed under the provisions of section 226 may be sold by the Commissioners, and the proceeds of such sale may be applied, so far as the same will extend, to the payment of the expenses incurred.

Any surplus of such sale-proceeds shall on demand be restored to the owner of such materials, and, if unclaimed, shall, after the lapse of 3 years, be carried to the credit of the municipal fund.

Stray dogs to be killed at

230. The Commissioners, or the Magistrate of the district or of the division, may by published order appoint from time to time certain periods within

appointed periods.

which any dogs without collars, or other marks distinguishing them as private property, found straying in the roads or beyond the enclosures of the houses of the owners of such dogs may be destroyed; and such dogs may be destroyed in accordance with such order.

Rewards for destruction of wild animals.

231. The Commissioners at a meeting may offer rewards for the destruction of wild animals within the limits of a municipality.

Names of roads and numbers of houses.

232. The Commissioners at a meeting may cause a name to be given to any road and to be affixed in such place as they may think fit, and may also cause a number to be affixed to every house; and in like manner may from time to time cause such names and numbers to be altered.

Penalty.

Whoever destroys, pulls down or defaces any such name, or puts up any name different from that put up by order of the Commissioners, shall be liable to a fine not exceeding 20 rupees.

PART VII.

OF CERTAIN MUNICIPAL REGULATIONS WHICH MAY BE EXTENDED TO ANY MUNICIPALITY BY EXPRESS ORDERS OF THE LIEUTENANT-GOVERNOR.

General.

Operation of Part.

233. No provision contained in this Part shall apply to any municipality unless and until it has been expressly extended thereto by the Lieutenant-Governor in the manner provided by the next succeeding section.

Lieutenant-Governor may order provisions of Part to be in force.

234. The Lieutenant-Governor may, on the recommendation of the Commissioners at a meeting, order that all or any of the said provisions of this Part shall be in force in any municipality; and may, on such recommendation, order that any place in a municipality be excluded from the operation of the said provisions.

Publication of order.

Such order shall be published in the *Calcutta Gazette*, and the Commissioners shall, within 15 days of such publication, cause a copy of the same, with a translation thereof into the vernacular, to be posted up at their office, with a notice of the date on which such order shall take effect, and shall cause the same to be published as prescribed in section 365;

and the said provisions shall come into force in the municipality from the date so fixed:

Provided that the date so fixed shall not be less than 15 days after the publication under the said section, and shall not be more than 3 months after the publication of the order of the Lieutenant-Governor as aforesaid in the *Calcutta Gazette*.

The Lieutenant-Governor may at any time cancel or modify an order made under this section.

Of Privies, Drains and Excavations.

Commissioners may require owner or occupier to repair drain, &c.

235. The Commissioners may require the owners or occupiers, or the owners and occupiers, of any land, within 15 days, to repair and make efficient any drain, privy or cesspool, or to close any cesspool which is situated on such land.

Penalty for throwing rubbish into sewers.

236. Whoever, without the permission of the Commissioners, throws or puts, or permits his servants to throw or put, any offensive matter or the dead body of any animal on to any road, or who throws or puts, or permits his servants to throw or put, any earth, rubbish, offensive matter or dead bodies of animals into any sewer or drain belonging to the Commissioners, or into any drain communicating therewith, shall be liable to a fine not exceeding 25 rupees for every such offence.

Penalty for allowing water of sink, &c., or offensive matter to run or drain on road.

237. Whoever causes or allows the water of any sink, sewer or cesspool, or any other offensive matter belonging to him or being on his land to run, drain or be thrown or put upon any road, or causes or allows any offensive matter to run, drain or be thrown into a surface-drain near any road, shall be liable to a fine not exceeding 25 rupees for every such offence.

Privies to be properly enclosed.

238. Every person constructing a privy shall have such privy shut out by a sufficient roof and wall or fence from the view of persons passing by or residing in the neighbourhood: and the Commissioners may require any owner or occupier of land on which a privy stands, to cause the same to be shut out from view as aforesaid within 15 days.

Penalties.

239. Any person constructing a privy and failing to have it shut out from view as aforesaid shall be liable to a fine not exceeding 20 rupees; and any person failing to comply with a requisition under the last preceding section shall be liable to a fine not exceeding 25 rupees, and to a further fine, not exceeding 5 rupees, for every day during which the offence is continued after the expiration of the time specified in the said notice.

Unauthorized drains leading into public sewers may be demolished.

240. If any person, without the written consent of the Commissioners first obtained, makes or causes to be made, or alters or causes to be altered, any drain leading into any of the sewers or drains vested in the Commissioners, the Commissioners may cause such branch-drain to be demolished, altered, re-made or otherwise dealt with as they shall think fit;

and the expenses thereby incurred shall be paid by the person making or altering such branch-drain.

Penalty for altering or making unauthorized drains leading into public sewers.

241. Whoever, without the written consent of the Commissioners previously obtained, makes or causes to be made, or alters or causes to be altered, any drain leading into any of the sewers or drains vested in the Commissioners by this Act, shall be liable to a fine not exceeding 50 rupees.

Commissioners may require owner to drain land.

242. If any land, being within 100 feet of a sewer, drain or other outlet into which such land may, in the opinion of the Commissioners, be drained, is not drained to the satisfaction of the Commissioners, the Commissioners may require the owner within one month to drain the said land into such sewer, drain or outlet.

Group or block of houses, &c., may be drained by combined operation.

243. If it appear to the Commissioners that a group or block of houses may be drained or improved more economically or advantageously in combination than separately, and a sewer, drain or other outlet already exists, within 100 feet of any part of such group or block of houses, the Commissioners may cause such group or block of houses to be drained and improved by a combined operation;

and the expenses thereby incurred shall be recovered from the owners of such houses in such proportions as shall to the Commissioners seem fit.

Commissioners may alter drain, &c., made contrary to orders.

244. If any branch-drain, privy or cesspool be constructed contrary to the directions and regulations of the Commissioners, or contrary to the provisions of this Act, or if any person, without the consent of the Commissioners, constructs, re-builds or unstops any branch-drain, privy or cesspool which has been ordered by them to be demolished or stopped-up, or not to be made, the Commissioners may cause such amendment or alteration to be made in any such drain, privy or cesspool as they think fit, or may cause the same to be removed;

and the expenses thereby incurred shall be paid by the person by whom such drain, privy or cesspool was improperly constructed, re-built or unstopped.

Penalty for persons making or altering drains contrary to orders of Commissioners.

245. Whoever constructs any such drain, privy or cesspool, contrary to the directions and regulations of the Commissioners, or contrary to the provisions of this Act, or without the consent of the Commissioners, constructs, re-builds or unstops any drain, privy or cesspool which has been ordered by them to be demolished or stopped-up, or not to be made, shall be liable to a fine not exceeding 50 rupees.

No latrine to be constructed within 50 feet of tank.

246. No person shall, without the written permission of the Commissioners, construct or keep any latrine, urinal, cesspool, house-drain or other receptacle for filth, sewage, house-drainage or other offensive matter, within 50 feet of any public tank, or a tank which the inhabitants of any locality are entitled to use.

The Commissioners may require any owner and occupier upon whose land any latrine, urinal, cesspool, house-drain or other receptacle so situated exists or may hereafter be constructed, to remove the same within 8 days.

Construction of privy.

247. No person shall, without the written permission of the Commissioners, construct a privy with a door or trap-door opening on to any road or drain.

The Commissioners may require any owner or occupier upon whose land any such privy exists to remove the same within 8 days.

Penalties.

248. Any person constructing a latrine, urinal, cesspool, house-drain or privy in contravention of the provisions of either of the two last preceding sections, shall be liable to a fine not exceeding 25 rupees; and any person failing to comply with any requisition under the said sections shall be liable to a fine not exceeding 25 rupees, and to a further fine, not exceeding 5 rupees, for each day during which the offence is continued after he has been required by a notice in writing to desist from the offence.

Power to prohibit excavations.

249. The Commissioners at a meeting may by a general order prohibit the making of excavations for the purpose of taking earth therefrom, or for the purpose of storing rubbish or filth therein, and the digging of cesspools, tanks or pits, without special permission previously obtained from them.

If any such excavation, cesspool, tank or pit is made after the issue and publication of such order without such special permission, the Commissioners may require the owners and occupiers of the land on which such excavation, cesspool, tank or pit is made, within 8 days to fill up such excavation.

Penalty.

250. Whoever shall dig or make, or cause or suffer to be dug or made therein, any such excavation, cesspool, tank or pit without the written permission of the Commissioners, shall be liable to a fine not exceeding 25 rupees for every such offence.

Of Obstructions and Encroachments on Roads.

Removal of existing projection from houses.

251. The Commissioners at a meeting may determine on the removal or alteration, as they shall think fit, of any projection, encroachment or obstruction which may have been erected or placed against, or in front of, any house on any road within the limits of the municipality, before the date on which the District Municipal Improvement Act, 1864, or the District Towns Act, 1868, as the case may be, took effect in the municipality, or in case neither of the said Acts was in force in the municipality before the commencement of this Act, then before the date on which this Act may have been extended thereto.

Notice in writing shall be given to the owner or occupier of such house requiring him to remove or alter the said projection, encroachment or obstruction, or to shew cause before the Commissioners why he should not be required so to do; and if such owner or occupier shall fail to comply with such requisition within 30 days of the receipt of the same, or if after such owner or occupier shall have shewn cause against being required to remove or alter the said projection, encroachment or obstruction, the Commissioners shall make an absolute order directing such removal or alteration, and such owner or occupier

shall fail to comply with such order within 15 days of the date of the same, the Magistrate may, on the application of the Commissioners, order such projection, encroachment or obstruction to be removed or altered; and thereupon the Commissioners may remove or alter such projection, encroachment or obstruction.

The Commissioners shall make reasonable compensation to every person who suffers damage by any removal or alteration under this section.

In determining the amount of compensation, the value of the land shall not be taken into consideration.

Effect of order under section 251.

252. Every order made by the Magistrate under the last preceding section shall be deemed to be an order made by him in the discharge of his judicial duty, and the Commissioners shall be deemed to be persons bound to execute such orders of a Magistrate within the meaning of Act XVIII of 1850 [a] (*for the protection of Judicial Officers*).

Leave to deposit materials on, or to excavate or close, road.

253. The Commissioners may grant permission to any person to deposit any moveable property on any road, or to make an excavation in any road, or to enclose the whole or any part of any road, and may charge such fees as they may fix for such permission, provided that such person undertakes to erect sufficient fences to protect the public from injury, danger or annoyance, and to light such fences from sunset to sunrise sufficiently for such purpose.

Hoards to be set up during repairs.

254. Every person intending to build or take down any house, or to alter or repair the outward part of any house, shall, if any public road will be obstructed or rendered inconvenient by means of such work, before beginning the same, cause sufficient hoards or fences to be put up, in order to separate the house where such works are being carried on from the road, and shall keep such hoard or fence standing and in good condition, to the satisfaction of the Commissioners, during such time as the public safety or convenience requires, and shall cause the same to be sufficiently lighted during the night:

Provided that no person shall put up a hoard or fence without the written permission of the Commissioners, and shall not keep up the said hoard or fence for a time longer than allowed in the said written permission.

Penalty.

255. Every person who begins to build, or to take down or alter, or repair, any house contrary to the provisions of the last preceding section, or who, without license, erects or sets up any hoard, scaffolding or fence whatsoever, or who, being licensed, fails to put up such fence or hoard, or to continue the same standing, or to maintain the same in good condition, or who does not, while such hoard or fence is standing, keep the same sufficiently lighted during the night, or who does not remove the same within 8 days when directed by

[a] See General Acts, vol. I, p. 89.

the Commissioners, shall be liable to a fine not exceeding 50 rupees for every such offence, and a further fine, not exceeding 10 rupees, for each day during which the offence is continued after he has been convicted of such offence.

Of Building Regulations.

Roofs and external walls not to be made of inflammable materials.

256. The Commissioners at a meeting may direct that within certain limits, to be fixed by them, the external roofs and walls of huts or other buildings which are about to be erected, or the roofs or walls of which are about to be renewed or thoroughly repaired, shall not be made of grass, leaves, mats or other inflammable materials.

Notice of new buildings to be given to Commissioners.

257. Before beginning, within the limits of any municipality, to build or re-build any house, the person intending to build or re-build such house shall give to the Commissioners notice thereof in writing, and shall accompany such notice with a plan, shewing the levels and width at which the foundation and lowest floor of such house are proposed to be laid, by reference to some level ascertained under the direction of the Commissioners.

Commissioners to signify disapproval within 14 days.

258. Within 14 days after receiving such notice as is mentioned in the last preceding section, the Commissioners shall signify their approval of the proposed levels and width of foundation, or if they disapprove thereof, they shall fix other levels and width of foundation in lieu thereof within the same time.

Houses built without notice, or contrary to Act, may be altered by Commissioners.

259. If such building as is mentioned in section 257 be begun or made without sending such notice and plan as are mentioned in the said section, or at any levels different from those fixed by the Commissioners within the said 14 days, or in any other respect contrary to the provisions of this Act, the Commissioners may require the owner or occupier to cause such building to be altered or demolished, as the case may require.

If Commissioners fail to signify approval, &c., within 14 days, parties may proceed without.

260. If the Commissioners fail to signify in writing their approval or disapproval of the levels and width of foundation shewn on such plan as is mentioned in the last preceding section, and to fix other levels and width of foundation within 14 days after receiving such notice and plan as aforesaid, the person giving such notice may, notwithstanding anything hereinbefore contained, proceed to build or re-build the house therein referred to, according to the levels and width of foundation shewn on such plan:

Provided that such building or re-building be otherwise in accordance with this Act.

The word "house" in this and the three last preceding sections does not include a hut.

Erection of new huts to be under

261. It shall not be lawful for any person to erect a hut, or any range or block of huts or sheds, or to add any hut or shed to any range or block already

control of Commissioners.

existing, without previous notice to the Commissioners, and the Commissioners may require such huts or sheds to be built so that they may stand in regular lines, with a free passage or way in front of and between every two lines, of such width as they may think proper for ventilation and to facilitate scavengering, and with such number of privies and with such means of drainage as to them may seem necessary, and at such a level as will admit of such drainage, and with a plinth at least two feet above the level of the nearest street.

Power to direct removal of huts built without notice.

262. If any such huts or sheds be built without giving such notice to the Commissioners or otherwise than as required by the Commissioners, the Commissioners may require the owners of the land on which such huts and sheds are built, and the occupiers of such huts and sheds, to take down and remove the same within one month, or to effect such alterations as they may deem necessary.

Penalty.

263. Whoever erects a hut, or any range or block of huts or shed, or adds to any hut or shed, or to any range or block already existing, contrary to the provisions of section 261, and whoever fails to remove such hut, block of huts or shed when required by the Commissioners to do so, shall be liable to a fine not exceeding 20 rupees for every such offence, and to a further fine, not exceeding 5 rupees, for each day during which the offence is continued after he has been convicted of such offence.

Of Sanitary Measures with regard to Blocks of Huts.

Power of Commissioners as to inspection of huts.

264. Whenever the Commissioners at a meeting are satisfied, from inspection, or by report of competent persons, that any existing block of huts within the municipality is, by reason of the manner in which the huts are constructed or crowded together, or of the want of drainage and the impracticability of scavengering, attended with risk of disease to the inhabitants or the neighbourhood, they may cause the locality to be inspected by two medical officers who shall make a report in writing on the sanitary condition of the said block of huts, and shall specify, if necessary, in the said report the huts which should be removed, the roads, drains and sewers which should be constructed, and the low lands which should be filled up, with a view to the removal of the said risk of disease.

On receipt of report, Commissioners may require works to be executed.

265. On receipt of the said report the Commissioners at a meeting may require the owners or occupiers of the huts, or, at the option of the Commissioners, the owner of the land on which such huts are built, to carry out and execute, within a reasonable time, to be fixed by the Commissioners for such purpose, all or any of the works specified in the aforesaid report, or any portion thereof respectively.

Expenses may

266. The Commissioners at a meeting may order that any expenses pay-

able in respect of any work done by them in consequence of the failure of the owners or occupiers to execute such work when required to do so under the last preceding section, shall be recovered by instalments from the person liable to pay the same; or if it should appear to them that the said person is unable by reason of poverty to pay the same, may order the same, or any portion thereof, to be paid out of the municipal fund.

be recovered by instalments or remitted in case of poverty.

267. If any of the said huts be pulled down, the Commissioners shall cause the materials of each hut to be sold separately, if such sale can be effected, and the proceeds shall be paid to the owner of the hut; or if the owner be unknown, or the title disputed, shall be held in deposit by the Commissioners, until the person interested therein shall obtain the order of a civil Court of competent jurisdiction for the payment of the same.

Sale of huts.

268. In case the Commissioners should omit to take any action under sections 264 and 265, or in the opinion of the Lieutenant-Governor should fail to give proper effect to the provisions thereof, the Lieutenant-Governor may cause any block of huts to be inspected by the Sanitary Commissioner of Bengal, who shall make a report in writing to the Lieutenant-Governor on the sanitary condition of the locality, and in the event of his reporting that the sanitary condition of the locality is such as to be attended with risk of disease to the inhabitants or the neighbourhood, shall specify the huts which should be removed, the roads, drains and sewers which should be constructed, and the low lands which should be filled up, with a view to the removal of the said risk of disease.

If Commissioners fail to act, Lieutenant-Governor may take steps.

269. On receipt of the said report the Lieutenant-Governor may order the Commissioners to require the owners or occupiers of the huts, or the owner of the land on which such huts are built, to carry out and execute, within a reasonable time, to be fixed by the Lieutenant-Governor for such purpose, all or any of the works specified in the said report, or any portion thereof respectively, and a requisition made by the Commissioners in accordance with such order shall be deemed to be a requisition made under section 265.

On receipt of report, Lieutenant-Governor may order Commissioners to serve notice on owners.

270. If the Commissioners make default in carrying out the said order of the Lieutenant-Governor, the Lieutenant-Governor may appoint some officer to perform the same, and such officer may exercise such powers as the Commissioners, or the Commissioners at a meeting, might have exercised in respect of the execution of the required works, and in respect of the recovery of the expenses incurred thereby, and shall be liable to all or any of the obligations imposed upon the Commissioners by section 267, and the expenses incurred by such officer in the execution of the said works shall, subject to the provisions of section 266, be paid by the owners or occupiers of the huts, or the owner of the land, as the Lieutenant-Governor may direct.

On Commissioners' default in carrying out order, Lieutenant-Governor may carry it out.

Of the Regulation of the Sale of Food, Drink and Drugs.

Markets, slaughter-houses, &c., to be properly drained.

271. Every owner, or occupier, or farmer, of any place for the sale of meat, poultry, fish or vegetables, or of any slaughter-house, within the limits of a municipality, shall cause such drains to be made therein as shall be considered sufficient by the Commissioners, and (if required so to do by the Commissioners) shall cause all the floors and drains to be paved with stone or burnt brick, and shall also cause a supply of water to be provided, sufficient for keeping such place or slaughter-house in a clean and wholesome state.

Penalty.

272. If such owner, occupier or farmer, after notice in writing given to him by the Commissioners that such place or slaughter-house is defective in any of the said particulars, and requiring him to remedy the defect specified within not less than 30 days, makes default therein, he shall be liable to a fine not exceeding 20 rupees for every day during which such default is continued after issue of the said notice.

Sale of unwholesome food or drink.

273. Any Magistrate, on the application of the Commissioners or any of their officers, setting forth that there is just cause to believe that any article which has been rendered, or has become, noxious or unfit for use as food or drink for man, is in the possession of any person for the purpose of being sold, or offered or exposed for sale, within the limits of a municipality, as food or drink for man, may grant a warrant to enter upon the premises of such person and to search for and seize such article;

and if it appear to the said Magistrate that the same is noxious or unfit for such use, he shall order it to be forfeited and disposed of in such way as to him shall seem proper.

Power to Commissioners to enter and inspect markets, shops, &c., and to seize unwholesome articles exposed for sale.

274. The Commissioners, or any person authorized by them in that behalf, may at all reasonable times, enter into and inspect any market, buildings, shop, stall or place used for the sale of meat, poultry, fish, vegetables, corn, bread, flour, wine, spirits, butter, ghee or other food or drink, or as a slaughter-house, and may examine any of the aforesaid articles of food or drink which may be therein; and in case any of the aforesaid articles of food or drink appear to be intended for the food or drink of man, and to be unfit for such food or drink, may seize the same;

and if it appear to a Magistrate that any of the aforesaid articles of food or drink is unfit for the food or drink of man, he shall order the same to be destroyed, or to be so disposed of as to prevent its being exposed for sale or used for such food.

Places for sale of drugs to be registered.

275. No place shall be kept for the sale of drugs unless the same shall have been registered in the office of the Commissioners.

Penalty.

276. Whoever uses any such place as is mentioned in the last preceding

section without the same being registered, shall be liable to a fine not exceeding 100 rupees, and to a further fine, not exceeding 20 rupees, for each day during which the offence is continued after he has been convicted of such offence.

Inspection of drugs.

277. The Commissioners, or any person authorized by them in that behalf, may, at all reasonable times, enter into and inspect any place kept for the sale of drugs, or in which drugs are sold, and if they have reason to suspect that any drug in the said place is adulterated in such a manner as to lessen its efficacy, to change its operation, or to render it noxious, may remove the same on giving a receipt therefor, specifying the nature and quantity of the drug removed, and its approximate value; and if it appear to a Magistrate that the said drug removed as aforesaid is adulterated as aforesaid, he may order the same to be destroyed, or to be so disposed of as to him may seem fit.

Compensation if drug not adulterated.

If it shall appear to the said Magistrate that the drug so removed is not adulterated as aforesaid, the person from whose shop or place it has been taken shall be entitled to have it restored to him, and it shall be in the discretion of the said Magistrate to award him such compensation as he may think proper, not exceeding the actual loss which has been sustained.

If the drug removed as aforesaid is not brought before a Magistrate, it shall be restored to the person from whose shop or place it was taken, and such person shall be entitled to compensation for any actual loss which he may have sustained by the removal of the said drug.

Of Burial and Burning-Grounds.

Registration of existing burial and burning-grounds.

278. Within 3 months from the date on which this and the six next succeeding sections may come into force as provided in section 234, every place which is used as a burial or burning-ground for corpses shall be registered as such by the owner thereof in the office of the Commissioners, but no fee shall be charged for such registry.

No burial or burning-place to be formed without leave.

279. No burial or burning-ground, whether public or private, shall be made or formed, or, having lapsed into disuse, shall be again used as such, otherwise than with the permission of the Commissioners, or under the authority of the Lieutenant-Governor.

Commissioners may order certain burial or burning-grounds to be closed.

280. If it shall appear to the Commissioners at a meeting that any public or private burial or burning-ground is dangerous to health or offensive to the tax-payers, or to the inhabitants of the neighbourhood, and also that a suitable place for interment or burning, as the case may be, exists within a convenient distance, and is open and available to the inhabitants of the municipality, the Commissioners shall give public notice of their intention to close such burial or burning-ground, and shall consider any objections which may be preferred

within 15 days of the publication of such notice; after considering such objections they may, with the sanction of the Commissioner of the division previously obtained, by notification to be affixed on some conspicuous part of the ground, appoint a time, not being less than two months, for the closing of such burial or burning-ground.

If any building is attached to and used in connection with a burning-ground closed under this section, the Commissioners shall, if the owner of such building make an application to them in that behalf, take over the same on payment of a fair price therefor.

Prohibition to bury or burn in unregistered ground.

281. After the expiration of the 3 months as mentioned in section 278, no corpse shall be buried or burnt otherwise than in a place which is borne on the register of the Commissioners as an open burial or burning-ground; but the Commissioners may grant special permission for a corpse to be buried or burnt elsewhere.

Penalty.

282. Whoever, after the expiration of the period mentioned in the last preceding section, knowingly buries or burns, or causes, procures or suffers to be buried or burned, any corpse in or on any ground not registered as a burial or burning-ground, shall be liable to a fine not exceeding 100 rupees.

Commissioners may provide burial or burning-grounds.

283. The Commissioners at a meeting may, from time to time, out of the municipal fund, with the sanction of the Lieutenant-Governor, provide fitting places to be used as burial or burning-grounds.

Commissioners may provide for burial of paupers free of charge.

284. The Commissioners at a meeting may from time to time, out of the municipal fund provide for the burial and burning of paupers, free of charge, within the limits of the municipality.

Of certain Offensive and Dangerous Trades or Occupations.

Offensive and dangerous trades not to be established without license within limits fixed by Commissioners.

285. Within such local limits as may be fixed by the Commissioners at a meeting, no place shall be used without a license from the Commissioners, which shall be renewable annually, for any of the following purposes, namely,

melting tallow;

boiling offal or blood;

skinning or disembowelling animals;

as a soap-house, oil-boiling-house, dyeing-house;

as a tannery, slaughter-house or kiln for making bricks, pottery, tiles or lime;

as a manufactory or place of business from which offensive or unwholesome smells may arise;

as a yard or depôt for trade in hay, straw, wood, thatching grass, jute or other dangerously inflammable material;

as a store-house for kerosine, petroleum, naphtha or any inflammable oil, spirit or explosive substance;

as a shop for the sale of meat;

or as a saráí.

Such license shall not be withheld unless the Commissioners have reason to believe that the business which it is intended to establish or maintain would be offensive or dangerous to persons residing in or frequenting the immediate neighbourhood.

The Commissioners may impose such conditions in respect of such license as they may think necessary.

This section shall not be applicable, until the expiration of one year from the date on which it may come into force as provided in section 234, to any land which may have been used for any such purpose before such date.

Penalty.

286. Whoever, without a license, uses any place for any of the aforesaid purposes within the limits of a municipality after the expiration of the said time, shall be liable to a fine not exceeding 50 rupees for every such offence, and to a further fine, not exceeding 10 rupees, for each day during which the offence is continued after he has been convicted of such offence.

Commissioners may order use of slaughter-houses, and carrying on of dangerous and offensive trades, to b discontinue

287. If it be shown to the satisfaction of the Commissioners at a meeting that any place licensed under section 285, or that any place in respect of which the period of one year as mentioned in the said section has not expired, is a nuisance to the neighbourhood, they may, notwithstanding anything contained in the said section, give notice to the occupier to discontinue the use of such place within one month after the date of such notice.

Penalty.

288. Whoever, after the expiration of such time, uses such place, or permits it to be used, in such a manner as to be a nuisance to the neighbourhood, shall be liable to a fine not exceeding 200 rupees, and to a further fine, not exceeding 40 rupees, for each day during which the offence is continued after he has been convicted of such offence.

Milkman, &c., not to keep animals or cattle without license.

289. Within such limits as the Commissioners at a meeting may determine, no milkman, cartman, livery stable-keeper or keeper of hackney-carriages shall keep any horses, ponies or horned cattle exceeding 10 heads for the purposes of trade or of business except in a place licensed by the Commissioners.

Such license shall be taken out half-yearly, in the first and seventh month in every year.

It shall be in the discretion of the Commissioners in meeting to grant any such license subject to such conditions as they may think fit.

Penalty.

290. Whoever, being a milkman, cartman, livery-stable-keeper or keeper of hackney-carriages, keeps any horses, ponies or horned cattle within such limits without such license, and contrary to the provisions of the last preceding section, shall be liable to a fine not exceeding 50 rupees, and to a further

fine, not exceeding 50 rupees, for each day during which the offence is continued after he has been convicted of such offence.

Penalty.

291. Whoever, being the holder of a license under section 289, breaks the conditions of such license, shall be liable to a fine not exceeding 50 rupees, and to a further fine, not exceeding 10 rupees, for each day during which the offence is continued after he has been convicted of such offence.

Regarding pig-styes, sheep and cattle.

292. Within such limits as the Commissioners may direct, no person shall keep any pig-stye not being shut out from a road by a sufficient wall or fence, and no person shall keep within such limits more than 10 pigs, or more than 20 sheep or goats, otherwise than with the written permission of the Commissioners.

The Commissioners may charge an annual fee, not exceeding two rupees, for such permission, and may impose such conditions in respect of such permission as they may think necessary.

Penalty.

293. Whoever keeps any pig-stye, pigs, sheep or goats, contrary to the provisions of the last preceding section, shall be liable to a fine not exceeding 50 rupees, and to a further fine, not exceeding 10 rupees, for each day during which the offence is continued after he has been convicted of such offence.

Suspension or revocation of license, &c.

294. Any Magistrate before whom any person is convicted of an offence contrary to the provisions of this Act relating to the use of any place for a purpose for which a license is required, or of the non-observance of any of the bye-laws relating thereto made under this Act, in addition to the fine which may be imposed on such person under this Act, may suspend, for any period not exceeding two months, any such license,

and the Commissioners, upon the conviction of any person for a second or other subsequent like offence, may cancel his license.

PART VIII.

Of the Registration of Births and Deaths.

Registration of births and deaths.

295. Every municipality, when required by the Lieutenant-Governor to do so, shall provide for the registration of births and deaths within the limits of its jurisdiction in accordance with the provisions of Bengal Act IV of 1873[a] (*for registering births and deaths*), or any other similar Act for the time being in force.

On requisition of Government, Commissioners to appoint Sub-Registrars at burning-ghâts and burial-grounds.

296. The Lieutenant-Governor may require the Commissioners of any municipality to appoint and maintain at each burning-ghât and burial-ground for Natives a Sub-Registrar for the registration of all corpses brought to such burning-ghât or burial-ground for cremation or interment.

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[a] See *supra*, p. 761.

Information required by Bengal Act IV of 1873 to be given to Sub-Registrars.

297. Whenever a Sub-Registrar shall have been appointed for any burning-ghát or burial-ground under the last preceding section, information of the particulars required by section 8 of Bengal Act IV of 1873 to be known and registered may be given in respect of the death of any person whose body is brought to such burning-ghát or burial-ground for cremation or interment to such Sub-Registrar, and information so given shall be deemed to be information given to the Registrar of the district as required by the said section.

Section 9 of Bengal Act IV of 1873 shall be applicable to all Sub-Registrars appointed under this Act.

Information of deaths in hospitals.

298. Whenever a death shall occur in any hospital within the limits of any municipality in respect of which the Lieutenant-Governor has directed that all deaths shall be registered under Bengal Act IV of 1873, it shall be the duty of the medical officer in charge of such hospital forthwith to send a notice in writing of the occurrence of such death to the Commissioners in such form as the Lieutenant-Governor may prescribe; and in such case no other person shall be required to give information of such death to a Registrar under Bengal Act IV of 1873, or to a Sub-Registrar under this Act.

PART IX.

Of Municipal Markets.

Operation of this Part.

299. This Part shall not apply to any municipality until it has been expressly extended thereto by the Lieutenant-Governor by notification in the *Calcutta Gazette*.

Power to construct markets.

300. The Commissioners at a meeting may, with the sanction of the Lieutenant-Governor, and not otherwise, provide land for the purpose of being used as municipal markets; and may defray the cost of providing such land and of all expenses necessary for the establishment of such markets from the municipal fund, and may take a lease of any market;

and may, with such sanction, charge rent, tolls and fees for the right to expose goods for sale in such markets, and for the use of shops, stalls and standings therein.

All such rents, tolls and fees may be recovered as arrears of tax under the provisions of sections 111 to 120 (both inclusive).

Market fund.

301. All rents, tolls, fees and other sums received in respect of any market shall be credited to a separate fund, distinct from the municipal fund, which shall be styled "the Market Fund," and all expenses incurred in respect of the market shall be charged against such fund.

Interest on sums expended from

Every sum expended from the municipal fund under the provisions of this section on any market shall, until such sum be repaid, be treated as a book-

municipal fund on market.

debt against the market-fund, bearing interest at the rate of 5 *per centum per annum*, and such interest shall be charged against the market-fund and credited to the municipal fund as soon as possible after the close of each year.

Definition of "municipal market."

302. No place shall be deemed to be a municipal market for which the sanction of the Lieutenant-Governor is required under section 300, and no place shall be deemed to be a market to which the following sections apply, unless at least 30 shops, stalls or standings are erected therein for the sale of goods.

Commissioners may prohibit use of unlicensed markets.

303. The Commissioners at a meeting may order that, within such limits as they may fix, no land shall be used as a market for the sale of meat, fish, butter, ghee, fruits, vegetables and similar provisions otherwise than under a license to be granted by the Commissioners.

Power to grant licenses for markets.

304. When the Commissioners at a meeting shall have issued an order under the last preceding section, they may at a meeting grant a license for the use of any land as a market for the sale of provisions as aforesaid within the municipality.

Duration of license and terms on which granted.

305. Every license granted under this Part shall be granted without fee, and shall be in force until the end of the year, and the Commissioners may grant such license, year by year, on the certificate in writing under the hand of the chairman, annually renewed, that the land is fit to be used as a market for the sale of provisions as aforesaid.

Chairman bound to certify fit places.

306. The chairman, upon the application in writing of the owner of any land, shall grant such certificate, unless the land be defective for the purposes of a market in drainage, ventilation, water-supply or proper width of paths and ways.

Existing markets.

307. The owners or lessees of all land used as markets for the sale of provisions as aforesaid at the time of the extension of this Part to the municipality, shall be entitled to receive a license for the current year without the certificate required by section 305, but in subsequent years the license shall not be renewed without such certificate.

Licenses to be registered.

308. Every license under this Part shall be registered in a book to be kept for that purpose by the Commissioners in their office, in which shall be stated

(*a*) the name and address of the owner of the land and market;

(*b*) the name and address of the lessee thereof, if any;

(*c*) the extent and boundary of the market;

(*d*) the description of articles sold therein; and

(*e*) the days on which the market will be held.

Transfers to be registered.

309. Every transfer of interest in any such market shall be registered within two months after the date of transfer.

Unregistered markets to be deemed unlicensed.

310. Any market the license of which, or the transfer of interest in which, shall not have been duly registered under the two last preceding sections, shall be deemed to be land used as a market without a license.

Penalty for using unlicensed market

311. Whoever, being the owner or occupier of any land, wilfully or negligently permits the same to be used as a market for the sale of meat, fish, butter, ghee, fruits, vegetables or similar provisions, without a license under section 304, shall be liable to a fine not exceeding 200 rupees for every such offence, and to a further fine, not exceeding 40 rupees, for each day during which the offence is continued after conviction for such offence.

Power to close unlicensed places.

312. The Magistrate, on the application of the Commissioners, may order any land in respect of which a conviction shall have been obtained under the last preceding section to be closed as a market-place, and thereupon may appoint persons, or otherwise take order, to prevent such land being so used; and every person who shall sell or expose for sale meat, fish, butter, ghee, fruits, vegetables or similar provisions on any land which shall have been so closed, shall be liable, for every such offence, to a fine not exceeding 10 rupees.

PART X.

Of Bye-laws and miscellaneous Matters relating to Municipalities.

Bye-laws in first class municipality.

313. The Commissioners of any municipality may from time to time, at a meeting which has been convened expressly for the purpose, and of which due notice shall have been given, make bye-laws not inconsistent with the provisions of this chapter for—

(*a*) regulating the conduct of business at their meetings;

(*b*) regulating the time and mode of collecting the taxes mentioned in this chapter;

(*c*) regulating the conduct of persons employed by them;

(*d*) the prevention of the construction or opening of cesspools;

(*e*) regulating the disposal of offensive matter, rubbish and dead bodies of animals;

(*f*) the regulation and management of privies;

(*g*) regulating traffic in the streets;

(*h*) regulating or prohibiting the use of fire-balloons, fire-works, fire-arms or other missiles in the vicinity of public roads;

(*i*) the registration of births and deaths;

(*k*) and generally for the purposes of this chapter.

And the Commissioners of any municipality to which Part IX may have been extended may similarly make bye-laws for the regulation of markets.

The Commissioners may from time to time, at a meeting as aforesaid, repeal, alter or add to such bye-laws:

Provided that no fee or toll which is not expressly sanctioned by this Act shall be levied under any such bye-law.

Confirmation of bye-laws.

314. No bye-law, and no repeal, alteration of, or addition to, any bye-law, shall have effect until the same has been confirmed by the Lieutenant-Governor, and until the expiration of one month after the same has been published as provided by section 365, and no bye-law, and no alteration of, or addition to, any bye-law shall be sanctioned by the Lieutenant-Governor otherwise than on the recommendation of the Commissioners at a meeting.

Penalties for breach of bye-laws.

315. The Commissioners at a meeting may, with the sanction of the Lieutenant-Governor, declare the penalties which shall be incurred by the breach of any bye-law, and any person committing a breach of any bye-law shall be liable to the penalty so declared; provided that no higher penalty shall be incurred by the breach of any bye-law than a fine of 50 rupees for every offence specified thereby, and a further fine of 10 rupees for each day during which the offence is continued after the offender has been required by a notice in writing to desist from such offence.

Commissioners may direct prosecution for public nuisance.

316. The Commissioners may direct any prosecution for any public nuisance, and may order proceedings to be taken for the recovery of any penalties under this chapter, and for the punishment of any persons offending against the same, and may order the expenses of such prosecution or other proceedings to be paid out of the municipal fund.

No prosecution for offence under Act to be instituted without consent of Commissioners.

317. No prosecution for an offence under this chapter or any bye-law made in pursuance thereof shall be instituted without the order or consent of the Commissioners, and no such prosecution shall be instituted except within 3 months next after the commission of such offence, unless the offence is continuous in its nature, in which case a prosecution may be instituted within 3 months of the date on which the commission or existence of the offence was first brought to the notice of the chairman of the Commissioners:

Provided that the failure to take out any license under this chapter shall be deemed to be a continuing offence until the expiration of the period for which such license is required to be taken out.

Procedure if Commissioners fail to pay for Police, maintain roads, &c.

318. If the Commissioner of the division in which the municipality is situated shall have reason to believe that the Commissioners have failed to pay for the municipal Police as required by this chapter, or have failed to maintain within the limits of the municipality any road which without such limits is maintained by a district committee under the Road Cess Act, 1871,

or have failed to maintain in proper order the roads within the municipality ;

or have failed to make adequate and suitable provision for the cleaning and the conservancy of the municipality to an extent likely to be prejudicial to the health of the inhabitants of any part thereof,

the said Commissioner may, with the sanction of the Lieutenant-Governor, convene a committee consisting of—

(*a*) the Magistrate of the district, or the Magistrate of the division of the district,

(*b*) the Executive Engineer of the division,

(*c*) the Civil Surgeon of the district,

(*d*) and two members, one of whom shall be nominated by the Commissioner of the division, and the other by the Commissioners at a meeting ;

and such committee shall inquire into and report on the state of the municipality.

The Lieutenant-Governor may, on the report of such committee, call upon the Commissioners by a requisition in writing forwarded to the chairman, and published in the *Calcutta Gazette*, to raise the necessary funds and carry out the purposes of this chapter, in respect of all or any of the objects mentioned in this section.

And if the Commissioners neglect, for the period of 3 months from the date of such publication, to comply with such requisition, the Lieutenant-Governor may direct the Magistrate of the district to raise the necessary funds under the provisions of this chapter, and carry out the purposes thereof in respect of the said objects, or any of them ; and for such purposes the Magistrate of the district shall have all the powers and rights conferred on the Commissioners and the Commissioners at a meeting by this Act, and shall exercise such powers and rights until the said Lieutenant-Governor shall otherwise direct.

CHAPTER III.

Of Unions.

319. In every place which, in accordance with the provisions of section 3 becomes a Union under this chapter, every person who has been appointed to be a member of a panchâyat for such place under Act XX of 1856, and is serving as such member at the commencement of this Act, shall be deemed to be a member of the panchâyat duly appointed for such Union ; and in every

Extent and commencement of chapter.

such Union any tax which may have been imposed and assessed under the provisions of the said Act shall be deemed to have been imposed and assessed under this chapter, and may be levied as in this chapter provided.

Lieutenant-Governor may extend chapter.

320. The provisions of this chapter may be extended by the Lieutenant-Governor, by notification published in the *Calcutta Gazette*, to any city, town, suburb or bázár not being within the limits of the ordinary original jurisdiction of the High Court at Fort William in Bengal, from such date as may be specified therein, and shall thereupon come into force in such city, town, suburb or bázár on the date so specified.

Power to vary limits of Union or exempt it.

321. The Lieutenant-Governor may, by like notification, at any time vary the limits of any Union, or withdraw any Union from the operation of this chapter.

Unions may be formed.

322. The Lieutenant-Governor may, by notification to be published in the said Gazette, form into a Union for the purposes of this chapter any city, town, suburb or bázár, or any part or parts of a city, town, suburb or bázár with any other city, town, suburb or bázár, or part or parts of a city, town, suburb or bázár; but no agricultural village intervening shall be included in such Union.

Government may define limits of towns, &c.

323. For the purposes of this chapter, the Lieutenant-Governor may define and declare the limits of any Union formed under the last preceding section, and all occupiers of houses within any such Union shall be liable to be assessed according to the provisions of this chapter for the purposes mentioned in the next succeeding section; but such Union shall not include any agricultural village.

Magistrate to raise amount of expense.

324. The Magistrate of every Union shall, by ways and means in and by this chapter provided, cause to be levied and raised in such Union the amount of the expense of the Police to be borne under the provisions of this chapter by such Union, and the cost of raising such amount; and the Magistrate may by the same ways and means cause to be levied such further sum as to him shall seem meet, and apply the same in cleansing such Union, in providing drinking-water or in lighting or otherwise improving the same:

Provided that the aggregate amount to be raised under the provisions of this section shall not exceed the average rate of one rupee and eight annas per annum for each house, and the amount assessed in respect of any one house shall not be more than the pay of a Police-officer of the lowest grade who is appointed to such Union.

The Union Fund.

325. All sums raised, levied or received by the Magistrate, and all fines paid or levied under this chapter, and all other sums which the Lieutenant-Governor may direct, shall constitute a fund which shall be called the Union Fund of the Union on account of which they are raised, levied or received;

and all expenditure authorized by this chapter shall be made from such fund.

Magistrate to cause estimates to be prepared.

326. The Magistrate shall, before the close of each year, cause to be prepared in detail estimates shewing the probable receipts and expenditure of the Union during the ensuing year, and shall lay such estimates before the Commissioner of the division, who may accept, amend or reject the same.

Nature of tax to be levied.

327. The tax to be levied in any Union for the purposes of this chapter shall be an assessment according to the circumstances and the property to be protected of the persons liable to the same.

Constitution of panchâyats.

328. For the purposes hereinafter mentioned, the Magistrate shall constitute and appoint a panchâyat for each Union, or when he may see fit to divide any Union into convenient wards, for each ward thereof; and shall issue a certificate of appointment, specifying the names, residence, business or other description of the persons appointed, and the period for which the appointment is made.

Every panchâyat shall consist of three or five respectable persons residing or carrying on business in or near to any such Union, or in or near to any such ward thereof:

Provided that instead of any one such person, the Magistrate may appoint any person whom he may think fit to be a member of the panchâyat notwithstanding such person may not reside or carry on business in or near to such Union, or in or near to any such ward thereof.

Duties of panchâyat.

329. The panchâyat so appointed, or the majority of them, shall, once in every year, if required so to do by the Magistrate, prepare and make, in accordance with the rules laid down in the requisition, an assessment upon the several persons liable to be assessed in respect of their occupation of property within the Union, or any ward thereof as aforesaid for which the panchâyat shall be appointed, and shall enter the same in a list which shall specify the names of the several occupiers of property within such Union or ward thereof liable to be assessed under the provisions of this chapter, the trade, business or other description of such occupier, the property occupied, and the amount payable monthly by such occupier.

Form of Magistrate's requisition.

330. The requisition of the Magistrate to the panchâyat to make out such list shall be in the form marked (A) set forth in the fourth schedule, or to the like effect.

Panchâyat may revise assessment.

331. The panchâyat shall, if required by the Magistrate so to do, instead of making a new assessment, revise and amend the assessment then in force.

Magistrate may amend and settle assessment by panchâyat.

332. When an assessment shall have been made or revised, as the case may be, the panchâyat shall forward to the Magistrate the list containing the same, and the Magistrate shall revise and, if necessary, amend and settle it.

Power to exempt occupiers unable to pay.

333. The Magistrate may, at his discretion, exempt from the assessment any occupier who may be unable from poverty to pay the same.

Notice of assessment to be published.

334. When the assessment shall have been settled, the Magistrate shall sign the list, and shall cause a copy thereof to be prepared in the form (B) in the fourth schedule, and deposited in his office, and a notification in the form (C) of the said schedule or to the like effect, and written in the language which is ordinarily spoken in such Union, to be published in the manner provided in section 365.

Assessment to stand good for one year.

335. Unless revised or corrected as hereinafter provided, every assessment made under this chapter shall stand good for one whole year, and until a new one is made.

Change of occupation before new assessment.

In case the occupier of any property included in any assessment shall be changed before a new assessment is made, the new occupier, instead of the former occupier thereof, shall be liable in respect of such property for any portion of the assessment which shall have become payable during his occupation; and, after notification to such person, the Magistrate may cause his name to be substituted in the said list for the name of the former occupier.

Revised assessment deemed new one.

Every assessment which shall be revised according to the provisions of section 331 shall be deemed a new assessment:

Provided that if no new assessment is made within the first 3 months of any year, a notification of the list of the previous year shall be published as required by section 334, and such list shall thereupon be deemed to be the assessment for the current year, and shall be open to appeal under the next succeeding section.

Appeal from assessment.

336. Any person assessed who shall be dissatisfied with his assessment or who shall dispute his occupation of any property, or his liability to be assessed, may appeal to the Magistrate; and the Magistrate, after making such inquiries as he deems necessary, by examination of the appellant on oath or solemn affirmation, or otherwise, may confirm the assessment or amend the same.

The decision of the Magistrate in such cases shall be final, and no objection shall be taken to any assessment, nor shall the liability of any person to be assessed be questioned in any other manner or by any other Court:

Provided that no appeal shall be received after the expiration of one month from the time of the publication of the notification prescribed by section 334, or of the notification of the substitution of the name of an occupier under section 335, unless the Magistrate, upon reasonable cause shewn, shall extend the time for receiving such appeal.

Commissioner

337. The Commissioner of the division, with the consent of the Lieuten-

ant-Governor, may at any time direct the Magistrate to revise the assessment of any Union or ward thereof as aforesaid, specifying the reasons which, in his opinion, render such revision necessary, and the Magistrate shall, according to such direction, revise and, if necessary, amend the same.

of division may direct revision of assessment.

338. The Magistrate may require the panchâyat to revise the assessment at any period during the year, but on every such occasion he shall address a written order to the panchâyat specifying the reasons which render such revision necessary, and requiring an amended return within a stated period.

Power of Magistrate to direct revision of assessment.

339. Whenever any assessment is revised during the year as provided in the two last preceding sections, a copy of such revised list shall be prepared and deposited as provided in section 334, and a notification shall be published in the manner directed in the said section.

Publication of assessment as revised under last two sections.

And all objections to such revised assessment shall be made and dealt with in the manner prescribed by section 335.

340. If the persons appointed a panchâyat, or a majority of them, refuse or omit, for a period of 15 days after the receipt of an order from the Magistrate, to perform the duties required of them, the Magistrate may himself make or revise the assessment, and may enforce the same as if it had been made or revised in the first instance by the panchâyat:

If panchâyat refuse or omit to act, Magistrate may assume their functions.

Provided that the functions of the panchâyat shall not thereby absolutely cease and determine, but may be resumed at any time, only not so as to invalidate any act done by the Magistrate under this section.

341. Every panchâyat shall be appointed for the period of one year, and any person who has served as member of a panchâyat during one year may be re-appointed so to serve during the following year.

Duration of panchâyat and service thereon.

342. If a majority of the persons assessed in any Union or ward for which a panchâyat shall be appointed, not being in arrear, make application in writing to the Magistrate for the removal of any member of the panchâyat appointed for such district, the Magistrate, if he think it expedient, may remove such member from the panchâyat.

Member of panchâyat removeable on application of rate-payers.

343. If any vacancy shall occur among the members of a panchâyat, or if any member appointed shall refuse or decline or be unable to act, the Magistrate may, by a written communication to the person appointed, nominate and appoint another person to supply the vacancy or to be a member of the panchâyat.

Vacancies in panchâyat how supplied.

344. In cities and large towns containing three or more divisions or districts, the Magistrate may appoint a sadr panchâyat consisting of not less than five members, who may be selected either from the members of the local panchâyats or from any other residents of the town.

Appointment and duty of sadr panchâyat.

It shall be the duty of the sadr panchâyat to assist the Magistrate, when

required so to do, in carrying out generally the objects of this chapter, and particularly in revising the assessment made by the panchâyats of wards of the Union, and inquiring into, and reporting on, appeals preferred against the same.

Appointment of tax-collectors and other establishments.

345. Subject to the approval of the Commissioner of the division, the Magistrate may appoint one or more tax-collectors and such other servants as may be necessary for preparing, or assisting the panchâyat in preparing, the assessment, for copying the same, for collecting the tax, keeping the accounts and records, and otherwise carrying out the purposes of this chapter.

The Magistrate shall take from every tax-collector such security for the due disposal of the sums collected by him as may be thought necessary.

Collection of assessment.

346. On such dates as may be fixed by the panchâyats for payment of instalments of the tax, the tax-collector shall proceed in person, or through some one of his office-establishment, to collect the amount due for the current month from each person subject to the tax, and for all sums so collected the tax-collector shall grant a receipt:

Provided that, with the sanction of the Commissioner of the division previously obtained, the collection may be made quarterly instead of monthly, and in such case the amount due for each quarter shall be collected in the last month of that quarter.

Recovery of sums not paid to tax-collector.

347. For the recovery of all sums which may not be paid to the tax-collector on demand, the Magistrate shall proceed as far as possible in accordance with sections 111 to 120 (both inclusive).

Part V of chapter II applicable to Unions.

348. The provisions of Part V of chapter II shall, as far as possible, be applicable to Unions.

In so applying them, the sections of the said Part shall be read as if the word "Union" were substituted for the word "Municipality," and for the word "municipal," wherever such words occur;

and all functions assigned to the Commissioners of municipalities by the said Part shall be performed by the panchâyats of Unions;

provided that the District Superintendent of Police shall present his estimate as mentioned in section 167 to the Magistrate, and not to the panchâyat;

provided also that the Magistrate shall cause such estimate to be translated, made available for inspection by any tax-payers, and laid before the panchâyats in the manner provided in section 169, and that the District Superintendent of Police shall cause the bill mentioned in section 173 to be laid before the Magistrate and not before the panchâyat, and the Magistrate shall cause the amount to be paid as provided in the same section.

Penalty for

349. The Magistrate may cause a name to be given to any street and

affixed in such place or places as he may think fit, and may also cause a number to be affixed to every house for the purpose of identifying such house; and if any person shall wilfully remove, obliterate or destroy such name or number, he shall be liable to a fine not exceeding 20 rupees. removing, &c., name of street or number of house.

350. The provisions of chapters I and V shall apply to every Union. Chapters applied.

CHAPTER IV.

Of Stations.

351. In every place which, in accordance with the provisions of section 3, becomes a station under this chapter, every person who has been appointed to be a Commissioner for such place under Act XXVI of 1850, and who is holding office as such Commissioner at the commencement of this Act, shall be deemed to be a Commissioner duly appointed for such station, and in every such station any tax which may have been imposed and assessed under the provisions of the said Act, shall be deemed to have been imposed and assessed under this chapter, and may be levied as in this chapter provided. Operation of chapter.

352. If it shall appear to the Lieutenant-Governor, from a requisition in writing signed by not less than two-thirds of the inhabitants of any town or suburb, not being within the limits of the ordinary original jurisdiction of the High Court at Fort William in Bengal, that the inhabitants of such town or suburb are desirous of making better provision for making, repairing, cleaning, lighting or watching any public streets, roads, drains or tanks, or for the prevention of nuisances, or for improving the said town or suburb in any other manner, the Lieutenant-Governor may extend the provisions of this chapter to such town or suburb. Lieutenant-Governor may extend chapter.

353. Whenever any application shall be made to the Government for putting this chapter in force in any town or suburb, notice thereof shall be given in the *Calcutta Gazette* setting forth the purposes of the application, and giving reasonable time for all inhabitants of such town or suburb who are minded to declare themselves for or against the adoption of this chapter therein, for such purposes or any of them. Notice of application.

Such notice shall also be published as provided in section 365.

354. The Lieutenant-Governor shall take all such declarations into due consideration, and after the time allowed for receiving the same, shall make a final order, which shall be published in the *Calcutta Gazette*, and also as provided in section 365, to the effect that the application appears, or does not appear, to be according to the wishes of the inhabitants, either wholly, or in respect to one or more of the purposes in respect of which it is made; and if Publication of final order.

the whole or any part of it shall appear to be according to the wishes of the inhabitants, then that this chapter shall be thenceforth in force in such town or suburb, for such purposes only as shall be mentioned in the order.

On publication of order, chapter comes into force.

355. Whenever any such order shall be made and published as aforesaid, this chapter shall come into force within the said town or suburb, for such purposes as are mentioned in the order, and the making and publication of the said order shall be conclusive evidence that the provisions of this chapter have been complied with, and that this chapter is thenceforth in force within the said town or suburb, for such purposes as are mentioned in the order.

Appointment of Commissioners.

356. Whenever this chapter shall come into force in any place, the Lieutenant-Governor shall appoint the Magistrate and such number of the inhabitants thereof as to him shall appear necessary, to be Commissioners for putting the chapter in force in the station, and shall give authority to them to prepare rules for more effectually accomplishing the purposes for which they are appointed; which rules, when approved by the Lieutenant-Governor, and published in the *Calcutta Gazette*, shall be of the same force within the station, until altered or rescinded as hereinafter provided, as if they were inserted in this chapter.

And the Lieutenant-Governor may remove any of the Commissioners and appoint others, and may fill up vacancies occurring among the Commissioners in such manner as may seem to him fit.

Rules.

357. The rules to be prepared by the said Commissioners shall provide, among other things, for those following, that is to say—

(1) the appointment and management of all necessary officers and servants of the Commissioners, and the salaries to be allowed to them;

(2) the definition of the persons or property within the station to be taxed for raising the monies necessary for the purposes of this chapter (whether by house-assessment or town-duties, or otherwise), the amount or rate of the taxes to be imposed, the manner of raising and collecting them, and ensuring the safety and due application of them when collected;

(3) the manner in which from time to time the rules in force are to be amended or rescinded, and new rules are to be made, with the approval in every case of the Lieutenant-Governor;

(4) the definition and prohibition of nuisances within the station;

(5) the imposition of reasonable penalties for breach of any rules made by the Commissioners, not exceeding 50 rupees, or in the case of a continuing nuisance, not exceeding 5 rupees, for every day that such nuisance is continued.

Station-fund.

358. All sums realized under the provisions of this chapter shall be paid into a separate fund to be styled "The Station-Fund of ——," and such

fund shall be at the disposal of the Commissioners, and all expenditure authorized by this chapter shall be made from such fund.

Commissioners may make contracts.

359. The Commissioners appointed from time to time shall have full power to make all necessary contracts, for the purposes of this chapter, and apply the taxes raised as aforesaid in the necessary works, and in payment of their officers and servants, and in the other expenses incident to the execution of this chapter within the station.

Liability of Commissioners.

360. No Commissioner shall be personally liable for any contract made by the Commissioners on behalf of the inhabitants of the station, but every Commissioner shall be liable for any misapplication of the monies collected, to which he shall have been knowingly party or privy, or which shall have happened through gross neglect of his duty, and shall be liable to be sued for the same as for money due to, and at the suit of, the Secretary of State in Council.

Recovery of taxes.

361. All sums due on account of any tax under this chapter may be recovered in the manner provided by sections 111 to 120 (both inclusive), and the provisions of those sections shall, so far as may be practicable, apply to the recovery of all such sums by the Commissioners under this chapter.

Commissioners to send Lieutenant-Governor annual account.

362. All Commissioners acting in execution of this chapter shall, on or before the last day of every year, make up and send to the Lieutenant-Governor an account of all works executed by them, and of all sums received and spent by them in the foregoing year in such form and with such vouchers as the Lieutenant-Governor shall from time to time order.

Lieutenant-Governor may suspend operation of chapter.

363. The Lieutenant-Governor may, at any time, suspend the operation of this chapter in any station, and appoint any person or persons to examine and report upon the behaviour of the Commissioners, or any of them or their officers, in the execution of the duties imposed on them by this chapter.

Chapters applied.

364. The provisions of chapters I and V shall apply to every station.

CHAPTER V.

Of general Matters relating to Municipalities, Unions and Stations.

Publication of bye-laws, orders, &c.

365. Every bye-law, order, notice or other document directed to be published under chapter II, chapter III or chapter IV, as the case may be, shall be written in or translated into the vernacular of the district, and deposited in the office of the Commissioners, or (under chapter III) in the office of the Magistrate, and a copy shall be posted up in a conspicuous position at such office and at every Police-station or outpost in the municipality, ward, union or station to which it relates, and in any other public places which the Commissioners or the Magistrate, as the case may be, may think proper.

And a public proclamation shall be made throughout such municipality, ward, union or station by beat of drum, notifying that such copy has been so posted up, and that the original is open to inspection in the office of the Commissioners or of the Magistrate, as the case may be.

Levy of fines.

366. Fines under this Act may be imposed by a Magistrate on any person who is convicted of the offence to which the fine attaches, and may be levied under the provisions of section 307 of the Code of Criminal Procedure, 1872.

How notice, &c., served.

367. Every notice, bill, form, summons or notice of demand under this Act may be served personally on or presented to the person to whom the same is addressed,

or be left at his usual place of abode, with some adult male member or servant of his family;

or, if it cannot be so served, presented or delivered, may be put on some conspicuous part of his place of abode;

or of the land, building or other thing in respect of which the notice, bill, form, summons or notice of demand is intended to be served.

Service of notice on owner or occupier of land.

368. Where any notice is required to be given to the owner or to the occupier of any land, such notice, addressed to the owner or occupier, as the case may require, may be served on the occupier of such land, or otherwise in the manner in the last preceding section mentioned:

Provided that when the owner and his place of abode are known to the Commissioners or other authorities issuing the notice, they shall, if such place of abode be within the limits of their authority, cause every notice required to be given to the owner of any land to be served on such owner, or left with some adult male member or servant of his family;

and if the place of abode of the owner be not within such limits, they shall send every such notice by post in a registered cover addressed to his place of abode, and such service shall be deemed to be good service of the notice.

When the name of the owner or occupier is not known, it shall be sufficient to designate him as "the owner" or "the occupier" of the land in respect of which the notice is served.

Tax not invalid for want of form.

369. No assessment or rating of tax on property shall be invalid for error or defect of form, and it shall be enough in any assessment, valuation or rating for the purpose of making such tax, if the property so assessed or valued is so described as to be generally known, and it shall not be necessary to name the owner or occupier thereof.

Holder of license to produce it when required.

370. Every person to whom a license has been granted under this Act shall at all reasonable times while such license shall remain in force, if thereunto required by the authorities which granted the license or by any person

authorized by them in that behalf, produce such license to the said authorities or to the person so authorized.

Whoever fails to produce his license when required to produce the same by any person authorized under this section to demand the production thereof, shall be liable to a fine not exceeding 100 rupees. Penalty.

371. All costs and other monies which are due under the provisions of this Act to the Commissioners of any municipality, to the Magistrate acting in any Union, or to the Commissioners of any station, may be recovered in the manner provided in sections 111 to 120 (both inclusive). Costs how recoverable.

372. If money be due under this Act in respect of any holding from the owner thereof, on account of any tax, expenses or charges recoverable under this Act, and if the owner thereof is unknown or the ownership thereof is disputed, the Commissioners, or the Magistrate acting under chapter III, as the case may be, may publish twice, at an interval of 3 months, a notification of sale of such holding, and after the expiry of not less than 3 months from the date of the last publication, unless the amount recoverable be paid, may sell such holding to the highest bidder, who shall at the time of sale deposit the full amount of the purchase-money. Power to sell unclaimed holdings for money due.

Any person may pay the amount due at any time before the completion of the sale, and may recover such amount by a suit in a Court of competent jurisdiction from any person beneficially interested in such property.

After payment of the amount due to the Commissioners or Magistrate as aforesaid, the surplus, if any, shall be paid on demand to any person who establishes his right to the satisfaction of such Commissioners or Magistrate, or in a Court of competent jurisdiction, or if unclaimed for a period of 3 years, shall be transferred to the municipal fund, union-fund or station-fund, as the case may be.

373. The Commissioners under chapter II, or the Magistrate acting under chapter III, or the Commissioners under chapter IV, respectively, may make compensation out of the municipal, union or station-fund respectively, to any person sustaining any damage by reason of the exercise of any of the powers conferred by this Act. Power to make compensation out of municipal fund.

374. No suit shall be brought against the Commissioners of any municipality, the Magistrate acting under chapter III, or the Commissioners of any station under chapter IV, or any of their officers, or any person acting under their direction, for anything done under this Act, until the expiration of one month next after notice in writing has been delivered or left at the office of such Commissioners or Magistrate, and also (if the suit is intended to be brought against any officers of the said Commissioners or Magistrate, or any person acting under their directions) at the place of abode of the person against No action against Commissioners or officers until after notice of cause of action.

whom such suit is threatened to be brought, stating the cause of suit and the name and place of abode of the person who intends to bring the suit;

And unless such notice be proved, the Court shall find for the defendant.

Every such action shall be commenced within 3 months next after the accrual of the cause of action, and not afterwards.

If any such person to whom any such notice is given shall, before suit is brought, tender sufficient amends to the plaintiff, such plaintiff shall not recover.

Chaukídárí chákarán lands.

375. Notwithstanding anything contained in section 3 of Bengal Act. VI of 1870[a] (*an Act to provide for the appointment, dismissal and maintenance of village chaukídárs*), the provisions of Part II of the said Act, relating to chaukídárí chákarán lands, shall be applicable to all such lands which have been assigned before the commencement of the said Act for the benefit of any part of a municipality, union or station; and all duties and functions which the panchávat of a village or any member thereof is required to discharge under the provisions of the said Part shall be discharged, and all powers which the panchávat of a village or any member thereof is authorized to exercise under the said Part shall be exercised,

in respect of any municipality, by the Commissioners thereof;

in respect of any union, by the Magistrate;

and in respect of any station, by the Commissioners thereof;

and the proceeds of the assessment on such lands made under the said Part shall be paid into the municipal, union or station-fund (as the case may be) and shall be available for the purposes of such fund.

Police-officers to report offences and to arrest offenders.

376. All Police-officers shall give immediate information to the Commissioners of the municipality, the Magistrate of the union, or the Commissioners of the station, as the case may be, of any offence committed against this Act.

Any Police-officer may arrest any person committing in his view any offence against this Act, if the name and address of such person be unknown to him,

or if such person decline to give his name and address,

or if the Police-officer shall have reason to doubt the accuracy of such name and address, if given.

And such person may be detained until his name and address shall be correctly ascertained, or until he shall be brought up at once before a Magistrate.

Penalty on officers, &c., taking un-

377. If any person employed under this Act (not being a public servant within the meaning of section 21 of the Indian Penal Code) shall accept or

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[a] See *supra*, p. 678.

obtain, or agree to accept or attempt to obtain, from any person, for himself or for any other person, any gratification whatever, other than legal remuneration, as a reward for doing, or forbearing to do, any official act, unauthorized fees.

or for shewing or forbearing to shew, in the exercise of his official functions, favour or disfavour to any person, or for rendering or attempting to render any service or disservice to any person with the Commissioners or with any public servant or with the Government as such, he shall be punished with imprisonment, either simple or rigorous, as provided in section 53 of the Indian Penal Code, for a term which may extend to 3 years, or with a fine not exceeding 5,000 rupees, or with both.

378. Nothing in this Act contained shall be construed to Saving clause.

(*a*) render lawful any act or omission on the part of any person, which, but for this Act, would by law be deemed to be a nuisance:

(*b*) exempt any person guilty of nuisance from a suit in respect thereof;

(*c*) affect any enactment not hereby expressly repealed.

FIRST SCHEDULE.

FORM A—(*see section 103*).

Notice to be published of the Preparation of the List of Assessment on Persons.

BENGAL MUNICIPAL ACT, 1876 (*section 103*).

MUNICIPALITY OF

Whereas an assessment-list of the tax upon persons occupying holdings has been deposited in the office of the Commissioners as required by section 103 of "The Bengal Municipal Act, 1876," notice is hereby given that the said list is open to the inspection of all persons desiring to inspect the same at the office of the said Commissioners during office-hours on any day not being a close holiday, and that the several persons whose names are included in the said assessment are hereby required to pay the quarterly instalments set opposite to their names with regularity at the office appointed by the Commissioners for the receipt of the same, or to the tax-collector or other officer authorized to receive payment, the first payment to be made on the first day of ( ), and every subsequent payment on or before the first day of ( ), the first day of ( ), and the first day of ( ), or in default thereof any arrear that may be due will be realized by distress and sale of the moveable property belonging to the defaulter, or which may be found on the holding in respect of which such defaulter is assessed, and by such other proceedings as are allowed by law.

Dated this day of

A. B.,
Chairman of Commissioners.

FORM B—(*see section 103*)

Notice to be published of the Preparation of the Valuation and Rating-list of Holdings.

BENGAL MUNICIPAL ACT, 1876 (*section 103*).

MUNICIPALITY OF

Whereas a valuation and rating-list of the rate on the annual value of holdings has been deposited in the office of the Commissioners as required by section 103 of "The Bengal Municipal Act, 1876," notice is hereby given that the said list is open to the inspection of all persons desiring to inspect the same at the office of the said Commissioners during office-hours on any day not being a close holiday, and that the several owners of the holdings included therein are hereby required to pay the quarterly instalments set opposite to their names with regularity at the office appointed by the Commissioners for the receipt of the same, or to the tax-collector or other officer authorized to receive payment, the first payment to be made on the first day of ( ), and every subsequent payment on or before the first day of ( ), the first day of ( ), and the first day of ( ), and in default thereof, any arrear that may be due will be realized by distress and sale of the moveable property belonging to the defaulter, or which may be found on the holding in respect of which the valuation is made, and by such other proceedings as are allowed by law.

Dated this day of

A. B.,
Chairman of Commissioners.

SECOND SCHEDULE.

FORM A—(*see section 111*).

NOTICE OF DEMAND UNDER SECTION 111, BENGAL MUNICIPAL ACT, 1876.

To of

Municipality of

Take notice that the sum of rupees , being the amount due from you as shewn in the accompanying bill, is hereby demanded from you, and that if you do not within 15 days pay the same to an officer authorized to receive payment, or into the office of the Municipal Commissioners, the

same with costs will be levied by distress and sale of your goods and chattels, or otherwise as provided by law.

A. B.,
Chairman of

[*The following note will be added at the foot of the above notice in those cases only in which the notice is to be addressed to a person who has not already paid one instalment of the tax at the rate at which the demand is made.*]

Note.—If you have any objection to make against this demand you may, instead of paying the amount which is hereby demanded, present a petition to the Commissioners praying for a review of the amount assessed (*or* rated). Such petition must be presented within 15 days of the service of this notice, otherwise it will not be received. If you present such petition, no amount will be levied from you until the Commissioners shall have passed an order on your petition; but after 15 days from such order, the amount due by you, with such costs as the Commissioners may direct, will be levied, unless it has been previously paid.

B.

TABLE OF FEES PAYABLE UPON DISTRAINTS UNDER THIS ACT.

FORM B—(*see section 112*).

Sums distrained for.	Fee. Rs. A.
Under 1 Rupee	0 4
1 and under 5 Rupees	0 8
5 „ 10 „	1 0
10 „ 15 „	1 8
15 „ 20 „	2 0
20 „ 25 „	2 8
25 „ 30 „	3 0
30 „ 35 „	3 8
35 „ 40 „	4 0
40 „ 45 „	4 8
45 „ 50 „	5 0
50 „ 60 „	6 0
60 „ 80 „	7 8
80 „ 100 „	9 0
Above 100 „	10 0

The above charge includes all expenses including the service of notice of demand, except when peons are kept in charge of property distrained, in which case three annas must be paid daily for each man. If the amount demanded be paid or the warrant discharged before the sale is held so that no sale is necessary, one-fourth of the fees specified in the above table shall be remitted.

C—(*see section 113*).

Distress-warrant.

BENGAL MUNICIPAL ACT (*section 113*).

To (*here insert the name of the officer charged with the execution of the warrant*).

Whereas of has not paid or shewn sufficient cause for the non-payment of the sum of rupees due for taxes (*or* rates) mentioned in the margin, although the said sum has been duly demanded in writing from the said , and 15 days have elapsed since the service of the notice of demand. This is to command you to distrain the moveable property of the said wherever it may be found within the municipality, except ploughs, plough-cattle, tools or implements of trade or agriculture, or any other moveable property subject to the same exceptions, which may be found within the holding specified in the margin to the amount of the said sum of and the further sum of to defray the charges of taking, keeping and selling such property; and if within ten days next after such distress the said sum of shall not be paid, to sell the said property, and having paid and deducted out of the proceeds of the sale the said sum of and the charges of taking, keeping and selling such property, to return the surplus (if any) on demand to the person whom you shall have found in possession of the said property, and if no demand be made, to pay the same to the Commissioners. If distress cannot be made of sufficient property of the said , you are to certify the same to us in returning this warrant.

A. B.,
Chairman of

D—(*see section 113*).

Form of Inventory and Notice.

BENGAL MUNICIPAL ACT (*section 113*).

(*State particulars of goods seized*).

Take notice that I have this day seized the property specified in the above inventory for the sum of due for the taxes (*or* rates) mentioned in the

margin, and that unless you pay to me or into the office of the Commissioners of the said sum of and the further costs of this distraint as specified below, within ten days from the day of the date of this notice, the property will be sold.

(*Signature of the officer executing the warrant of distress.*)

Date

E—(*see section 115*).

Register of Distraints of Property and Sales held on Account of Arrears for the Month of in

1. Name of defaulter.
2. Number on register and specification of the holding on account of which the arrear is due.
3. Amount of arrear due.
4. Amount of costs and penalty.
5. Total amount to be realized.
6. Inventory of property seized under distre
7. Date of distress.
8. Date of sale.
9. Detail of articles sold.
10. Amount realized on each article.
11. Purchaser's name.
12. Total amount realized.
13. Amount paid in to the Commissioners' office on account of the arrear due, with date.
14. Amount paid in to the Commissioners' office on account of costs and penalties.
15. Surplus-proceeds of sale remaining after deducting the amount of arrears, costs and penalties due.
16. How the surplus was disposed of, with date of such disposal.
17. Balance of arrear still remaining unrealized, if any.
18. On what date such remaining balance was realized or written-off by authority.
19. Remarks (explaining why the property seized was released without sale if not eventually sold, &c., &c.)

THIRD SCHEDULE.

(*See sections 78 and 122*).

TAX ON CARRIAGES AND ANIMALS.

	Per quarter. Rs.	A.
For every four-wheeled carriage drawn by two horses	4	8
For every four-wheeled carriage drawn by one horse or a pair of ponies under thirteen hands ...	3	0
For every two-wheeled carriage	2	8
For every horse	2	0
For every pony under thirteen hands, and for every mule and donkey	0	12
For every elephant	6	0
For every camel	2	0

Animals under eleven hands in height, and carriages the wheels of which do not exceed 24 inches in diameter, are exempted.

FOURTH SCHEDULE.

FORM A.

Requisition to Panchâyat.

SEE CHAPTER III, SECTION 330.

(*Here insert the names, places of abode, business or other description of the panchâyat*).

I do hereby require you, the panchâyat appointed under chapter III of the Bengal Municipal Act, 1876, with all reasonable expedition, within (*here insert a period to be fixed by the Magistrate*) from the date hereof, to make out and forward to me, the undersigned Magistrate of the district of , a fair and equitable assessment upon the several occupiers of houses, shops and buildings in the union of for the purpose of raising the sum of rupees required for the maintenance of the Police for the year commencing on and other expenses authorized by the said chapter. You shall regulate and determine the amount of assessment to be levied from every such occupier according to the circumstances and the property to be protected of each person. But the amount assessed in respect of any one house shall not exceed rupees (*here insert the pay of a Policeman of the lowest grade*), and the aggregate amount assessed shall not exceed the average-rate of two annas *per mensem* for each house, shop or building in the district.

If the occupier of any house in the said district shall be unable, on the ground of poverty, to pay the assessment to which he is liable under the said chapter, you may leave him unassessed, but the property occupied, together with the name and description of such occupier, shall be specified in the list, together with the ground of exemption.

If any house be let out in portions to different persons, or be let out to or occupied by lodgers or travellers, the person who shall so let the same, or who shall receive the rents or payments from such persons or lodgers, or travellers, shall be deemed the occupier of such house, and shall be assessed accordingly.

The assessment which you are hereby required to make shall specify the name of every occupier of property liable to be assessed, the name, trade or business or other description of the person assessed, the annual assessment and the quota payable monthly, and may be in the following form or to the like effect :—

Serial No.	Property occupied.	Name of occupier.	Profession or business or other description.	Amount of annual assessment.	Amount of monthly (*or* quarterly) payment.

FORM B.

Assessment.

(*See section 334*).

An assessment made for the Union of upon the several occupiers of houses and other property in the said district, pursuant to chapter III of the Bengal Municipal Act, 1876, for the purpose of maintaining the Police for such Union, for cleaning the Union, and for other purposes authorized by the said Act.

Serial No.	Property occupied.	Names of occupiers.	Profession or business.	Amount of monthly (*or* quarterly) assessment.

FORM C.

Notification.

(*See section 334*).

Whereas an assessment has been duly made pursuant to chapter III of the Bengal Municipal Act, 1876, and has been revised and settled by me, the undersigned Magistrate of and has been deposited in the office of the Magistrate, notice is hereby given that the said assessment is open to the inspection of all persons desiring to inspect the same at the said office during office-hours on any day not being a close holiday, and that the several persons whose names are included in the said assessment, are hereby required to pay the monthly (*or* quarterly) contributions set opposite to their names with regularity to the tax-collector or other person appointed by the Magistrate to receive the same, the first payment on the tenth day of the month succeeding the date of this notification, and every subsequent payment on or before the tenth day of each succeeding month (*if the tax is to be collected quarterly, the months in which the payment is to be made must be specified*), or in default thereof, any arrear that may be due will be realized by distraint and sale of the personal effects of the defaulter, or of any goods and chattels which may be found on the premises in respect of which such defaulter is assessed, and such other proceedings adopted for the recovery of the same as are allowed by law.

Dated this day of

Magistrate of

FIFTH SCHEDULE.

(*See section 2*).

PART I.—ACTS OF THE GOVERNOR GENERAL IN COUNCIL.

Number and year.	Subject.	Extent of repeal.
XXVI of 1850 ...	Improvements in towns ...	The whole Act so far as it affects the Provinces subject to the Lieutenant-Governor of Bengal.
XX of 1856 ...	Police chaukídárs in cities, &c., in the Presidency of Fort William in Bengal.	So much as has not been repealed.
XXI of 1857 ...	Order and good government of the suburbs of Calcutta and the station of Howrah.	Sections 25, 26, 27, 28, 29, 30, 31, 32, 38, 40, 41, 42, 43, 44, 45, 47, 48, 49, 50.
XII of 1858 ...	For raising funds for making and repairing roads in the suburbs of Calcutta and Howrah.	The whole Act.

PART II.—ACTS OF THE LIEUTENANT-GOVERNOR OF BENGAL IN COUNCIL.

Number and year.	Subject.	Extent of repeal.
III of 1864 ...	District Municipal Improvement Act.	So much as has not been repealed
VI of 1867 ...	Regulation of Police in towns and municipalities.	The whole Act.
VII of 1867 ...	Amending the District Municipal Improvement Act.	The whole Act.
II of 1868 ...	Amending the District Municipal Improvement Act.	The whole Act.
VI of 1868 ...	District Towns Act	The whole Act.
VII of 1870 ...	Sanitary condition of Dacca ...	The whole Act.
II of 1873 ...	Amending District Municipal Improvement and District Towns Acts.	The whole Act.

SIXTH SCHEDULE.

(*See section 2*).

Number and year.	Subject.	Extent of repeal.
Bengal Act IV of 1871.	Sanitation of Púri and other towns in Orissa, and regulation of lodging-houses therein.	Sections 24 to 34, both inclusive.

ACT No. VI of 1876.

Received the Lieutenant-Governor's assent on the 21st of April 1876, and the Governor General's assent on the 10th of July 1876.

An Act to provide for inquiry into Disputes regarding Rent, and to prevent Agrarian Disturbances.

Preamble.

For the purpose of providing for inquiry into disputes regarding rent, and of preventing agrarian disturbances; It is enacted as follows:—

Short title.

1. This Act may be called the "Agrarian Disputes Act, 1876:"

Local extent.

It extends to all the territories for the time being subject to the Lieutenant-Governor of Bengal.

Commencement.

It shall come into force from the date on which it may be published in the *Calcutta Gazette* with the assent of the Governor General, and shall continue in force for three years from such date.

Interpretation.

2. In this Act, unless there be something repugnant in the subject or context—

"Lieutenant-Governor."

"Lieutenant-Governor" means the Lieutenant-Governor of Bengal, or the person acting in that capacity:

"Board."

"Board" means the Board of Revenue for the Provinces for the time being subject to the Lieutenant-Governor of Bengal:

"Commissioner."

"Commissioner" means the Commissioner of a division, and includes any officer whom the Lieutenant-Governor may vest (as he is hereby empowered to do) with all or any of the powers of a Commissioner under this Act:

"Collector."

"the Collector" means the officer appointed to make the inquiry under this Act:

"Section."

"section" means a section of this Act.

Lieutenant-Governor may declare Act to be in force in any tract.

3. If it shall appear to the Lieutenant-Governor that a serious dispute exists in any tract of country as to any question in respect of the adjustment of rents, or as to arrears of rents,

and if application shall be made to the Lieutenant-Governor by any person interested in such dispute praying that the Lieutenant-Governor do take action under the powers vested in him by this Act,

the Lieutenant-Governor may, by an order to be published in the *Calcutta Gazette*, declare the provisions of this Act to be in force in such tract, the boundaries of which shall be defined in the said order,

and may direct that inquiry be made for the determination of such dispute by the Collector of the district, or by such other officer as the Lieutenant-Governor may think fit to appoint in that behalf.

A copy of such order shall be published by being posted up at the Court of

every Judge and Munsif, and at the office of every Collector and sub-divisional officer within whose jurisdiction, and at every Police-station within the jurisdiction of which, the said tract or any part of it is situated, and in such one or more conspicuous places in the said tract as the Collector may direct.

From the date of the publication of the copy of such order in the office of the Collector of the district, this Act shall be deemed to be in force in such tract until the Lieutenant-Governor shall by notification declare that it is no longer there in force.

Lieutenant-Governor may vest officer with powers of Deputy Collector.

4. The Lieutenant-Governor may specially vest any officer with the powers of a Deputy Collector under this Act; and any officer so vested may exercise any of the powers, and discharge any of the functions of the Collector under this Act (except in respect of appeals) which he may be required to exercise or to discharge by a general or special order of the Collector.

Lieutenant-Governor to specify matters for inquiry.

5. Whenever the Lieutenant-Governor shall have made an order under section 3, the Lieutenant-Governor shall also issue instructions specifying any matters of fact into which the Collector shall inquire, in accordance with the provisions of the said section; and on receipt of such instructions the Collector shall proceed to make the inquiry in accordance therewith.

Collector may allow parties to come before him and make objections.

6. Before proceeding to make such inquiry, the Collector shall publish a notification in the manner provided by clause 5 of section 3, stating the nature of the inquiry to be made, and calling upon all parties who may deem themselves interested therein to appear before him, either in person or by agent, for the purpose of making such representations and advancing such objections as to them may seem fit; and such representations and objections (if any) shall be duly heard and considered by the Collector.

Power to Collector to enforce attendance of witnesses.

7. For the purpose of such inquiry, the Collector shall have power to summon and enforce the attendance of parties and witnesses, to examine such parties and witnesses, and to compel the production of documents by the same means (as far as may be) and in the same manner as is provided in the case of a Court under the Code of Civil Procedure.[a]

Collector to draw up report, and to allow persons to take copies.

8. After making the necessary inquiry, the Collector shall draw up a report stating the result of the inquiry, and his own opinion on each of the matters specified for inquiry under section 5, and shall publish a notice in his office stating that any person may take a copy of the said report for the purpose of advancing before the Commissioner any objections thereto which he may think fit, and that such objections must be filed in the office of the Commissioner, or in the office of the Collector for transmission to the Commissioner, within 15 days of the publication of the said notice.

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[a] Act No. X of 1877.

Collector and Commissioner to report result of inquiry to Board.

9. The Collector shall forward such report and copies of any objections which may be filed in his office under the last preceding section to the Commissioner, and the Commissioner, after considering such objections, and causing any further inquiry to be made which he may think fit, shall submit the report of the Collector, with copies of the objections made thereto, and with his own opinion on each of the matters specified for inquiry under section 5, to the Board.

Board to issue instructions to Collector.

10. After considering the reports and objections submitted by the Commissioner under the last preceding section, the Board shall issue such instructions as to it shall seem fit, not being inconsistent with the provisions of this Act, in respect to the determination of each of the matters specified for inquiry under section 5, and the Collector shall make an order determining each of the said matters in accordance with such instructions of the Board.

Suits to be transferred to Collector.

11. On receipt of such instructions the Collector shall publish at his office a notice of such receipt, and from the date of the publication of such notice, and as long as this Act is in force in the tract mentioned in section 3, all suits of the nature of those specified in section 23 of Act X of 1859,[a] relating to such tract, shall be instituted before, and, except as hereinafter otherwise expressly provided, be cognizable by, the Collector and by no other tribunal.

Collector to send copy of notice to Courts.

12. As soon as possible after publication of the notice mentioned in the last preceding section, the Collector shall send a copy thereof to every Court which had jurisdiction to entertain such suits immediately before the publication of the said notice.

Procedure in suits.

13. In the disposal of such suits the Collector shall, as far as possible, follow the procedure prescribed in Act X of 1859, and all powers exercised by a Collector under the said Act may be exercised by the Collector under this Act, provided that all such suits shall be decided by a reference to, and in accordance with, any order of the Collector determining a matter under section 10, in so far as such order may be applicable.

Power to refer to arbitration.

14. The Collector may, with the consent of the parties concerned, refer any such suit to arbitration, and the provisions of sections 506 to 522 (both inclusive) of the Code of Civil Procedure shall, as far as may be practicable, apply to such references.

Rules for determining rate of rent.

15. Whenever in any suit instituted under the provisions of this Act it shall appear to the Collector that a raiyat having a right of occupancy is liable to enhancement of the rent previously paid by him on the ground that the value of the produce or the productive powers of the land held by him

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[a] See *supra*, p. 356.

have been increased otherwise than by the agency or at the expense of the raiyat;

or whenever in any such suit it shall appear to the Collector that such raiyat is entitled to claim an abatement of the rent previously paid by him on the ground that the value of the produce or the productive powers of the land held by him have been decreased by any cause beyond the powers of the said raiyat,

the Collector shall, if possible, fix the rate of rent payable by such raiyat, so that the rent previously paid by such raiyat shall bear to the rent so fixed the same proportion as the former value of the produce of the soil, calculated on an average of three or five years next before the date of the alleged rise or decrease in value, bears to the present value of such produce;

but if in any such suit the Collector shall not be able to ascertain to his satisfaction the former value of the produce as required for the application of the above rule,

the Collector may, if he think proper so to do, determine the rate of rent payable by such raiyat according to any of the following methods:—

(*a*) by fixing the rent of the raiyat so that it shall represent such portion of the existing average gross value of the produce of the land held by him as the Collector shall consider fair and equitable with reference to the circumstances of each case;

(*b*) by fixing the rent of the raiyat so that it shall represent such portion of the average nett profits of the land held by him (after deducting from the average gross annual value of the produce of such lands such a sum as may be deemed proper on account of costs of production and disposal of such produce) as the Collector shall consider fair and equitable with reference to the circumstances of each case;

(*c*) by taking as the standard of comparison the rates which are generally paid in adjacent places by raiyats having no right of occupancy, or in such places as the Collector may select, for lands of a similar description and having similar advantages; and by fixing the rates of rent to be paid by the raiyat having a right of occupancy at such percentage below the rent which would be paid for the same lands by raiyats having no right of occupancy as the Collector may consider fair and equitable with reference to the circumstances of each case.

Suit may be brought by or against any number of raiyats collectively.

16. In every suit under this Act of the nature of those specified in the first, second, third and fourth clauses of section 23 of Act X of 1859,[a] any number of raiyats or other tenants may be sued, or may sue collectively, and it shall be no ground for dismissing or refusing to hear the application that

[a] See *supra*, p. 356.

such raiyats or other tenants are wrongly joined as plaintiffs or defendants, provided all such raiyats or tenants hold land in the same estate;

but no order shall be passed in such case unless the officer making such order is satisfied that all parties have had an opportunity to appear and make objection to any claims preferred against them;

and if at any time it shall appear to the Collector that the question between any two of the parties of whom one is so joined with others cannot conveniently be so jointly tried, the Collector may order a separate trial to be held.

Order to specify how far it applies to each raiyat.

17. Every order passed in any such case as is mentioned in the first clause of the last preceding section, shall specify the extent to which each of the raiyats or other tenants named in the order shall be affected thereby.

Rate of rent once fixed to be fixed for five years.

18. Every decree of a Collector under this Act in any suit of the nature of those specified in the first clause of section 23 of Act X of 1859[a] shall have effect, and the rates of rent determined by such decree shall be payable from the beginning of the year in which such suit was instituted (such year being computed according to the era in force in the aforesaid tract), or from such later date as the Collector may fix; and the rates of rent so determined shall not be liable to abatement or enhancement for five years from the first day of the year in which the decree may have effect as provided in this section, or, in case any part of the tract is comprised within a temporarily-settled estate, until the conclusion of the period of the settlement with Government under which such estate is held, if such period expires before the lapse of five years as aforesaid:

Provided that, during the currency of the term for which the rent has been fixed as aforesaid, any person may bring a suit to enhance the rent of any raiyat or tenant whose rent has been so fixed, on the ground that the area of the raiyat's or tenant's holding has been increased by alluvion or otherwise, and on no other ground.

And any raiyat or tenant may, during the said period, bring a suit for abatement of his rent which has been so fixed, on the ground that the area of the land held by him has been diminished by diluvion or otherwise, and on no other ground.

Collector may refer suit to civil Court.

19. Notwithstanding anything contained in this Act, if it shall appear to the Collector that any suit which is pending before him involves any question relating to the title of land or to some interest in land, as between parties having conflicting claims thereto, or any other question which can more properly be decided by a civil Court, or, in districts in which Act X of 1859 is in force, by a revenue Court under that Act, the Collector may transfer such

[a] See *supra*, p. 356.

suit to a civil Court or revenue Court (according to whether such civil Court or such revenue Court would have had jurisdiction in the matter if this Act had not been passed); and such Court shall thereupon proceed to deal with the suit as if this Act had not been passed, and as if the suit had originally been instituted before such Court.

Collector may decide question before transferring suit to civil Court.

20. If such suit involves a question of rent or any other question which may properly be settled by the Collector under this Act, as well as a question which may more properly be decided by such civil Court or revenue Court, the Collector may decide the former question under this Act before transferring the suit to such other Court; and such decision shall be subject to the provisions of this Act in respect of appeals, and the civil Court or revenue Court shall be bound to give the final decision in the suit in accordance with the decision of the Collector or of the appellate authority under this Act on such question, so far as such decision is applicable.

Enforcement of decisions.

21. Every order and decree of a Collector under this Act may be enforced by the same means and in the same manner as if such order or decree were an order or decree to the same effect made under Act X of 1859.[a]

Powers of Collector after withdrawal of Act.

22. Notwithstanding that the Lieutenant-Governor may have issued a notification as provided in section 3 declaring this Act to be no longer in force in any tract, the Collector shall proceed to decide all suits pending before him on the date of issue of such notification as if no such notification had been issued; and in respect of all such suits and of all other matters and suits which may be pending before the Board, the Commissioner or the Collector on the date of the issue of such notification, the said Board, Commissioner and Collector shall, until such matters or suits are finally decided or disposed of, exercise the same powers with respect thereto as if such notification had not been issued.

Suit to contest order or decree.

23. No suit to contest any order or judgment of any officer under the provisions of this Act shall be instituted before any Court or tribunal otherwise than as provided in this Act.

Control and supervision of Commissioner and Board.

24. In the performance of their duties under this Act, the Deputy Collectors shall be subject to the general control and direction of the Collector, the Collector to the general control and direction of the Commissioner, and all officers to the general control and direction of the Board.

Appeal to and from Collector.

25. An appeal shall lie to the Collector against every order and judgment of a Deputy Collector under this Act, except as hereinafter otherwise provided; but no appeal shall lie against any order or judgment of the Collector under this Act except as hereinafter expressly provided.

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[a] See *supra*, p. 356.

No appeal from decree of Collector for money below Rs. 100, unless it involve question of right to enhance rents or relating to title to land.

26. In suits of the nature of those specified in clauses 2, 4 and 7 of section 23 of Act X of 1859, when such suits have been tried and decided by the Collector, if the amount sued for, or the value of the property claimed, does not exceed 100 rupees, the judgment of the Collector shall be final and not open to revision or appeal, unless in any such suit a question of right to enhance or otherwise vary the rent of a raiyat or tenant, or any question relating to a title to land, or to some interest in land as between parties having conflicting claims thereto, has been determined by the judgment, in which case the judgment shall be open to appeal in the manner provided in section 29.

The provisions of section 154 of Act X of 1859 [a] shall apply to all suits in which the judgment of the Collector is final.

No appeal against order declaring arrear due unless arrear has been paid.

27. Notwithstanding anything contained in this Act, no appeal shall lie against any order declaring arrears of rent to be due and directing that such arrears be paid, unless such appeal shall be accompanied by the certificate of the Collector that the amount of such arrears has been paid to the Collector; and on payment of such amount, the Collector, if required so to do by the person making such payment, shall be bound to grant such certificate, and to hold the amount in deposit until the appeal shall have been disposed of, or until the period for making such appeal shall have expired.

Appeal against judgment of Deputy Collector.

28. When any such suit as is mentioned in section 26 in which, if tried and decided by the Collector, the judgment of the Collector would be final, is tried and decided by a Deputy Collector, an appeal from the judgment of the Deputy Collector shall lie to the Collector, and the provisions of sections 157 to 159 (both inclusive) of the said Act X of 1859 shall apply to such appeals.

Appeal to Commissioner and to Board.

29. In all suits other than those in which when tried and decided by a Collector, the judgment of the Collector is final as aforesaid, or when tried and decided by a Deputy Collector, an appeal is allowed to the Collector, an appeal from the judgment of the Collector or Deputy Collector shall lie to the Commissioner, and the decision of the Commissioner shall be final, unless the amount or value in dispute exceed 5,000 rupees, in which case an appeal from the Commissioner's decision shall lie to the Board.

Time for presenting appeals from orders.

30. Every appeal against the order of a Deputy Collector shall be presented to the Collector within 15 days, and every appeal against the order of a Collector shall be presented to the Commissioner, or to the Collector for transmission to the Commissioner, within 30 days of the date of the order appealed against.

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[a] See *supra*, p. 356.

Every appeal against the order of a Commissioner shall be presented to the Board, or to the Commissioner for transmission to the Board, within 60 days of the date of the order appealed against.

Orders passed in appeal by a Commissioner or a Collector shall not be open to any further appeal, except as hereinbefore provided: but the Board or the Commissioner may at any time call for any case, and pass such orders thereon as they may think proper.

ACT No. VII OF 1876.

Received the Lieutenant-Governor's assent on the 22nd of July 1876, and the Governor General's assent on the 9th of August 1876.

An Act to provide for the Registration of revenue-paying and revenue-free lands, and of the proprietors and managers thereof.

WHEREAS it is expedient to make better provision for the preparation and maintenance of registers of revenue-paying and revenue-free lands, and of the proprietors and managers thereof, and of certain mortgages of revenue-paying lands; It is hereby enacted as follows:— Preamble.

PART I.

PRELIMINARY.

1. This Act may be called the "Land Registration Act, 1876," and it shall come into force from the date on which it may be published in the *Calcutta Gazette* with the assent of the Governor General, which date is hereinafter referred to as the commencement of this Act.[a] Short title. Commencement.

2. From the commencement of this Act, the Regulations mentioned in the schedule hereto annexed, to the extent specified in the third column thereof, shall cease to have effect in the Provinces subject to the Lieutenant-Governor of Bengal. Regulations repealed.

3. In this Act—unless there be something repugnant in the subject or context— Interpretation-clause.

(1) "civil Court" means any civil Court which is competent to hear and determine the matter with respect to which the words are used: "Civil Court."

(2) "estate" includes

(*a*) any land subject to the payment of land-revenue, either immediately or prospectively, for the discharge of which a separate engagement has been entered into with Government:

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[a] 23rd August, 1876.

(*b*) any land which is entered on the revenue-roll as separately assessed with land-revenue (whether the amount of such assessment be payable immediately or prospectively), although no engagement has been entered into with Government for the amount of revenue so separately assessed upon it as a whole:

(*c*) any land being the property of Government of which the Board shall have directed the separate entry on the general register hereinafter mentioned:

"Extent of interest." (3) "extent of interest" means the share or interest in an estate or revenue-free property of which the person with respect to whom the words are used is in possession as proprietor or manager:

"Lieutenant-Governor." (4) "Lieutenant-Governor" means the Lieutenant-Governor of Bengal for the time being, or the person acting in that capacity:

"Local division." (5) "local division" means a sub-division, pargana, tháná, Police-division of jurisdiction, or other division according to which the mauzáwár register of the district is arranged:

"Manager." (6) "manager" means every person who is appointed by the Collector, the Court of Wards or by any civil or criminal Court to manage any estate or revenue-free property or any part thereof, and every person who is in charge of an estate or revenue-free property or any part thereof on behalf of a minor idiot or lunatic, or on behalf of a religious or charitable foundation:

"Mauza." (7) "mauza" includes every village, hamlet, tola and other similar sub-division of land commonly in use in any district, by whatever name such sub-division may be known:

"Proprietor." (8) "Proprietor" means every person being in possession of an estate or revenue-free property, or of any interest in an estate or revenue-free property, as owner thereof, and includes every farmer and lessee who holds an estate or revenue-free property directly from or under the Collector:

"Recorded proprietor." (9) "recorded proprietor" means any proprietor whose name, and the character and extent of whose interest in an estate or revenue-free property, stand registered in any general register now existing or hereafter to be made under this Act:

"Revenue-free property." (10) "revenue-free property" means any land not subject to the payment of land-revenue which is included under one entry in any part of the general register of revenue-free lands:

"Section." (11) "section" means a section of this Act:

"The Board." (12) "the Board" means the Board of Revenue of the Provinces for the time being subject to the Lieutenant-Governor of Bengal:

"The Collector." (13) "the Collector" means the Collector of the district to which a register relates:

"The district." (14) "the district" means the district to which a register relates.

PART II.

Of the Registers to be kept up by the Collector.

Collector to keep registers.

4. The Collector of every district shall prepare and keep up the following registers:—

A.—A general register of revenue-paying lands;

B.—A general register of revenue-free lands;

C.—A mauzáwár register of all lands revenue-paying and revenue free;

D.—An intermediate register of changes affecting entries in the general and mauzáwár registers.

Forms, language character and arrangement of registers.

5. The register shall be written in such forms, language and character, and shall be arranged in such manner not being inconsistent with the provisions of this Act, as the Board from time to time may direct for each district.

The entries in each Part of the general registers shall be numbered in one consecutive series for the whole district, and shall follow one alphabetical arrangement, running from the beginning to the end of the Part.

General register of revenue-paying lands.

6. The general register of revenue-paying lands shall consist of two Parts:—

Part I.—Book of estates borne on the revenue-roll of the district.

Part II.—Book of lands situated in the district appertaining to estates borne on the revenue-rolls of other districts.

Part I of general register.

7. In Part I of the general register of revenue-paying lands shall be entered the name of every estate which is borne on the revenue-roll of the district, and the following particulars relating to every such estate:—

(*a*) name of the estate;

(*b*) number of the estate on the revenue-roll of the district, and the annual amount of revenue for which it is liable;

(*c*) names and addresses of the proprietors, managers and mortgagees of the estate, with the character and extent of the interest of each proprietor, manager and mortgagee;

(*d*) name of every local division in which any lands of the estate are situated, whether in the district, or in any other district, with specification under each local division of

(i) the number of mauzas containing such lands,

(ii) the name of each mauza,

(iii) the number which each mauza bears under the local division in the mauzáwár register, and

(iv) the area of land appertaining to the estate which each mauza contains, if ascertained by survey or other authentic measurement;

(*e*) reference to entries made in the intermediate register after the preparation of the general register.

Part II of

8. In Part II of the general register of revenue-paying lands shall be

general register.

entered the name of every estate which comprises lands situated in the district, but which is borne on the revenue-roll of some other district, and the following particulars relating to every such estate :—

(*a*) name of the estate ;

(*b*) name of the district on the revenue-roll of which the estate is borne, with the number which the estate bears on that roll, the annual amount of revenue for which it is liable, and the number which the estate bears in Part I of the general register of revenue-paying lands for its own district ;

(*c*) names and addresses of the proprietors, managers or mortgagees of the estate, with the character and extent of the interest of each proprietor, manager and mortgagee ;

(*d*) name of every local division of the district to which the register relates, in which any lands of the estate are situated, with a specification under each local division of

(i) the number of mauzas containing such lands,

(ii) the name of each mauza,

(iii) the number which each mauza bears under the local division in the mauzáwár register of the district, and

(iv) the area of land appertaining to the estate which each mauza contains if ascertained by survey or other authentic measurement ;

(*e*) reference to entries made in the intermediate register after the preparation of the general register.

General register of revenue-free lands.

9. The general register of revenue-free lands shall consist of three Parts—

Part I.—Book of lands held exempt from revenue in perpetuity.

Part II.—Book of lands occupied for public purposes without payment of revenue.

Part III.—Book of unassessed waste-lands and other lands not included in Part I or Part II of the general register of revenue-free lands.

Part I of general register of revenue-free lands.

10. In Part I of the general register of revenue-free lands shall be entered all lands held under bádsháhí, hukámi and other lákhiráj grants which have been declared to be valid by competent authority,

all lands in which the Government has conferred a proprietary title free in perpetuity from any demand on account of land-revenue, in consideration of the payment of a capitalized sum, or for any other reason,

and any lands of which the Board, on a full report of the circumstances of the case, shall have sanctioned the entry in this part of such register.

Part I of such register shall, as far as possible, contain the following particulars in respect of each entry :—

(*a*) name of the revenue-free property with the character of the tenure—

whether jágír, altamghá, debottar, bishnprít, purchased revenue-free, redeemed or otherwise;

(*b*) date of the grant or title being conferred;

(*c*) nominal area granted;

(*d*) names of the grantor and original grantee;

(*e*) reference to any decree or other order of competent authority declaring or recognizing the grant to be valid;

(*f*) names and addresses of the proprietors and managers of the revenue-free property, with the character and extent of the interest of each proprietor and manager;

(*g*) name of every local division in which any land appertaining to the property is situated, whether in the district or in any other district, with specification under each local division of

(i) the number of mauzas containing such land,

(ii) the name of each mauza,

(iii) the number which each mauza bears under the local division in the mauzáwár register, and

(iv) the area of land appertaining to the revenue-free property which the mauza contains, if ascertained by survey or other authentic measurement, with specification of the number of each field according to the papers of such measurement;

(*h*) reference to the entries in earlier registers relating to the property or any part thereof;

(*i*) reference to entries made in any intermediate register after the preparation of the general register.

Part II of general register of revenue-free lands.

11. In Part II of the general register of revenue-free lands shall be entered all lands which are occupied by the Government, or by any public body, for public purposes, and on account of which no land-revenue is demanded.

It shall contain the following particulars:—

(*a*) area of the land comprised in each entry;

(*b*) names of the local divisions and mauzas in which the lands are situated, with area in each mauza, and a reference to the number under which each mauza is entered in the mauzáwár register of the local division;

(*c*) name of the department of Government or of the public body by which the land is occupied;

(*d*) the purpose for which it is occupied;

(*e*) the date and particulars of the appropriation of the land to such purpose;

(*f*) reference to entries in the intermediate register made after the preparation of the general register.

Part III of general register of revenue-free lands.

12. In Part III of the general register of revenue-free lands shall be entered all waste and other lands (not being included in any other part of the general register) which are not assessed to land-revenue.

It shall contain the following particulars :—

(*a*) name and number of the lot, or other particulars identifying the property;

(*b*) area comprised in each entry;

(*c*) name of every local division and mauza in which lands of the property are situated, with area in each mauza, and a reference to the local division and number under which each mauza is entered under the local division on the mauzáwár register;

(*d*) reference to entries in the intermediate register made after the preparation of the general register.

Board may direct that three last sections shall not apply to any district.

13. If it shall appear to the Board that the circumstances of any district are such that it is not desirable or practicable to prepare the register of revenue-free lands in the manner described in the three last preceding sections, the Board may direct that the said sections shall not apply to such district, and may lay down rules, not being inconsistent with the provisions of this Act, in respect of the registration of revenue-free lands and of the proprietors and managers thereof, provided that such rules shall require the registration of the name of one or more persons as liable for the discharge of the duties and obligations referred to in section 68, in respect of all lands which under such rules may be registered as separate revenue-free properties.

Such rules, when they shall have been sanctioned by the Lieutenant-Governor and published in the *Calcutta Gazette*, and otherwise locally as the Lieutenant-Governor may order, shall, from such date as the Lieutenant-Governor may direct, have the same force as if they were included in this Act.

Purpose of mauzáwár register.

14. The mauzáwár register shall be kept up for the purpose of showing, in a connected form, the mauzas situated in each local division, and the lands, whether revenue-paying or revenue-free, of which each mauza consists.

Mauzáwár register to be arranged according to local divisions.

15. The mauzáwár register shall be arranged and divided according to sub-divisions, parganas, thánás, Police-jurisdictions, or such other local divisions of the district as the Board may from time to time direct for each district; the entries of mauzas shall have a separate series of consecutive numbers and a separate alphabetical arrangement for each local division.

The mauzáwár register shall contain the following particulars :—

(*a*) name of the mauza;

(*b*) total area of mauza if ascertained by survey or other authentic measurement, with a reference to the authority for the entry;

(*c*) name of every estate or revenue-free property to which any of the

lands of the mauza appertain, with a reference to the entry of each on the general register, and a specification of the area of land in the mauza which appertains to each, if ascertained by survey or other authentic measurement, with a reference to the authority for such entry;

(*d*) gross rental of the area of land in the mauza which appertains to each estate or property, if such rental has been ascertained, during management of the lands, by the Collector or by other authentic means, with a reference to the authority for the entry;

(*e*) reference to entries made in intermediate registers after the preparation of the mauzáwár register.

Intermediate registers.

16. Intermediate registers shall be kept up for the purpose of recording therein from time to time changes affecting the entries which stand in the general and mauzáwár registers, so that by a reference to them, in connection with those registers, correct information up to date on the points recorded may be obtained at any time; also for the purpose of keeping together, as far as possible, in a convenient form, the information which will eventually be required for re-writing the general and mauzáwár registers.

Division of intermediate register.

17. The intermediate register shall consist of two parts, as follows:—

Part I.—Book of changes affecting entries relating to revenue-paying lands.

Part II.—Book of changes affecting entries relating to revenue-free lands.

Particulars of Part I of intermediate register.

18. In Part I of the intermediate register shall be recorded in a convenient form all changes in the names of proprietors, managers and (so far as this Act requires) mortgagees, and in the character or extent of the interest of each such proprietor, manager and mortgagee, and such other changes affecting any entry standing in the general register of revenue-paying lands, or any entry in the mauzáwár register relating to revenue-paying lands as cannot conveniently be entered against such entry in the general or the mauzáwár register.

It shall contain the following particulars:—

(*a*) name of the estate affected with references to the number it bears on the general register of revenue-paying lands, the number it bears on the revenue-roll and the amount of revenue for which it is liable;

(*b*) references to previous entries in the intermediate register relating to the estate;

(*c*) particulars of the change, with a reference to the authority under which it is made;

(*d*) the numbers borne by the entries in each part of the general register of revenue-paying lands, and under each local division in the mauzáwár register, which are affected by the change here recorded.

Particulars of Part II of intermediate register.

19. In Part II of the intermediate register shall be recorded all changes in the names of proprietors and managers of revenue-free properties, and in the character and extent of interest of each such proprietor and manager, and such other changes affecting any entry standing in the general register of revenue-free lands, or any entry relating to revenue-free lands in the mauzáwár register as cannot conveniently be entered against such entry in the general or the mauzáwár register.

It shall contain the following particulars:—

(*a*) name and character of the revenue-free property to which the lands appertain, and number which it bears in any part of the register of revenue-free lands;

(*b*) reference to previous entries in the intermediate register relating to the property;

(*c*) particulars of the change, with a reference to the authority under which it is made;

(*d*) the numbers borne by the entries in the general register and under each local division in the mauzáwár register which are affected by the change here recorded.

PART III.

Of the Preparation and Maintenance of the Registers.

Old registers to be in force till new registers prepared.

20. Until the registers by this Act directed to be prepared are so prepared, the existing registers now kept up in the office of every Collector shall be deemed to be the registers kept up under this Act, that is to say—

the existing general register of revenue-paying estates shall be deemed to be the general register of revenue-paying lands;

the existing pargana-register (Part II) of revenue-free lands shall be deemed to be the general register of revenue-free lands, and the mauzáwár register in respect of revenue-free lands;

the existing pargana-register (Part I) of revenue-paying lands shall be deemed to be the mauzáwár register in respect of revenue-paying lands;

the existing register of intermediate mutations shall be deemed to be the intermediate register of changes affecting entries in the general and mauzáwár registers;

and all the provisions of this Act shall, as far as possible, be deemed to be applicable to such registers and to the registration therein of the names and interests of proprietors, managers and mortgagees.

How registers to be prepared.

21. The first general registers and the first mauzáwár register under this Act shall be prepared for each district at such time as the Board may direct

from the entries in the existing registers mentioned in the last preceding section, and from any other authentic information available to the Collector.

Board may order new registers to be prepared.

22. The Board may order new registers to be prepared whenever it may think fit, and such registers shall be prepared from the registers existing at the time of such order, and from the entries of subsequent changes in the intermediate registers, and from any other authentic information available to the Collector; and such additions to, omissions from, and alterations in, the entries as they appeared in the previous registers, shall be made as subsequent changes have rendered necessary, and the authority for every change shall be expressly referred to.

Entry of estate on part of general register.

23. Whenever, after the preparation of the general registers, it may be necessary to bring any estate or revenue-free property on to any part of such registers on which such estate or property is not already borne, such estate or property shall be at once brought on to such part under a new number, in continuation of the last number already borne on such part; and a note referring to such entry shall be made in the place in the general register in which such estate or property would have appeared according to the alphabetical arrangement mentioned in section 5.

Entry of mauza under local division of mauzáwár register.

24. Whenever, after the preparation of the mauzáwár register, it shall be necessary to enter any mauza under any local division of such register under which it is not already borne, such mauza shall be at once brought under the proper local division with a new number, in continuation of the number borne by the last entry under such local division; and a note referring to such entry shall be made in the place in the mauzáwár register in which such estate or property would have appeared according to the alphabetical arrangement mentioned in section 15.

Order of entries under two preceding sections.

25. All new entries made in the general and mauzáwár registers after their preparation, as prescribed in the two last preceding sections, shall be made in chronological order.

Note to be made on general register.

26. After the general register of revenue-paying lands shall have been prepared, a note shall from time to time be made on such register against the estate affected

of every alteration which may be ordered by competent authority in the amount of revenue assessed on any estate;

of every partition of an estate into two or more estates;

of every change involving the removal of an estate from the part of the register on which it is borne;

of the redemption of every mortgage in respect of which the name of the mortgagee shall have been entered on the register:

and in every such note reference shall be made to the authority under which the change was made.

In preparing the register space shall be left for the future entry of such notes against each estate.

Any other changes affecting the entries as they stand in the register may be recorded in Part I of the intermediate register, as provided in section 18, and a reference shall be made in the general register against the estate affected to every entry which may be made in the intermediate registers recording any such change.

Note on general register of revenue-free lands.

27. After the general register of revenue-free lands shall have been prepared, a note shall from time to time be made on such register against the property affected

of every case in which lands entered as revenue-free may be declared liable to assessment, and assessed by competent authority;

of every partition of a revenue-free property into two or more properties;

of every change involving the removal of a revenue-free property from the part of the register on which it is borne;

and in every such note reference shall be made to the authority under which the change was made.

In preparing the register space shall be left for the future entry of such notes against each estate.

Any other changes affecting the entries as they stand on the register may be recorded in Part II of the intermediate register as provided in section 19.

Collector, after inquiry, may make change in register.

28. Whenever it shall come to the notice of the Collector that any change has occurred which affects any entry in his registers, and renders necessary any alteration therein, the Collector, after making such inquiry as may be necessary, shall make such alteration:

Provided that notice shall be given to the recorded proprietors and managers of any estate or revenue-free property before any change is made in any way affecting such estate or property, and to every person whose name the Collector is about to register as proprietor or manager of any estate or revenue-free property, before such registration is effected; and any objections which may be made to the proposed change or registration shall be duly considered by the Collector before he orders such change or registration to be made.

When Collector may order name of proprietor to be struck out of register.

29. Whenever it shall appear to the Collector, in the course of an inquiry made in respect of an application under section 38 or section 42, or otherwise, that any person whose name is recorded in the general register as proprietor or manager, or joint proprietor or joint manager, of an estate or revenue-free property, is no longer in possession of any interest in such estate or property as proprietor or manager, and that the names of other persons have been recorded as proprietors or managers of every portion of the interest in respect of which such proprietor's or manager's name was borne on

the register, the Collector may order the name of such person to be struck out from among the recorded proprietors or managers of such estate or property, and, if required, may gratn him a certificate to that effect.

Information to be supplied to Collector.

30. To enable the Collector more effectually to maintain his registers,

(*a*) whenever any competent authority may direct that any estate be transferred from the revenue-roll of one district to that of another, the Collector of the district from the revenue-roll of which the estate is to be transferred shall transmit, to the Collector of the district to the revenue-roll of which the transfer is to be made, a copy of all entries in any of the registers relating to the estate to be so transferred, and entries taken from such copy shall be made in the proper registers of the district to which the transfer is made.

(*b*) Whenever the Collector of any district shall make an entry, or any alteration of an entry, in his registers, which will affect any entry required to be made under this Act in any register of another district, such Collector shall transmit to the Collector of such other district copy of such entry as made or as altered, and the Collector to whom such copy is transmitted shall cause the necessary entries, or alteration of entries, to be made in the registers of his district.

(*c*) Every proprietor and manager of an estate or revenue-free property in which any new village may be established, whether under the name of tola, kismat or any other designation, shall forthwith give notice to the Collector of the establishment of such new village :

Provided that the Board may exempt any district or part of a district from the operation of this clause.

(*d*) Every proprietor and manager of an estate or revenue-free property, and any person holding any interest in land, or employed in the management of land, shall be bound, on the requisition of the Collector, to furnish any information required by the Collector for the purpose of preparing, making or correcting any entry of the particulars specified in section 7, 8, 10, 11, 12 or 15, or to shew to the satisfaction of the Collector that it is not in his power to furnish the required information.

Such requisition shall be made by a notice to be served in the manner prescribed by section 50, requiring the production of such information before a date mentioned in such notice.

Penalties for not giving notice or furnishing information.

31. Whoever, being bound by clause (*c*) of the last preceding section to give notice to the Collector of the establishment of any new village, or under clause (*d*) of the said section to furnish any information required by the Collector, shall voluntarily or negligently omit to give such notice or furnish such information, or to shew to the satisfaction of the Collector that it is not in his power to furnish such information, shall be liable to such fine as

the Collector may think fit to impose, not exceeding one hundred rupees, for such omission, and the Collector may impose such further daily fine as he may think proper, not exceeding fifty rupees, for each day during which such person shall omit to furnish the information required under clause (*d*) after a date to be fixed by the Collector in a notice warning the person required to furnish such information that such further daily fine will be imposed.

Such notice shall be served in the manner prescribed by section 50, and the date fixed by such notice shall not be less than fifteen days after service thereof.

The Collector may proceed from time to time to levy any amount which has become due in respect of any fine imposed under this section, notwithstanding that an appeal against the order imposing such fine may be pending.

Provided that, whenever the amount levied under any such order shall have exceeded five hundred rupees, the Collector shall report the case specially to the Commissioner of the division, and no further levy in respect of such fine shall be made otherwise than by authority of the said Commissioner.

When register may be altered on order of civil Court.

32. Whenever any civil Court makes a decree confirming any transfer of proprietary possession which has already been made in any estate or revenue-free property, or gives effect to any decree transferring any such possession, such Court may order the transfer to be registered in the registers of the Collector, and the Collector shall register such transfer accordingly.

Lands held without payment of rent deemed to be part of certain estates.

33. All lands which are held without payment of rent, not being a revenue-free property entered in the general register of revenue-free lands as prescribed by sections 10, 11 or 12, and not being a part of any such property, shall, for the purposes of this Act, be deemed to be a part of the estate within the local boundaries of which they are included; and if they are not included within the local boundaries of any one estate, then to be a part of such neighbouring estate as the Collector shall, by an order under his seal and signature, declare.

Collector may include any lands in an estate.

34. Whenever it shall appear to the Collector that any lands which are not included in any estate as entered in the existing general register should be included in any such estate for the purposes of this Act, the Collector shall cause a notice, addressed to the person who is believed to be in possession of such lands, to be served in the manner prescribed by section 50, and a general notice to be published as prescribed by section 49, to the effect that such lands will be so included if no objection be made within one month of the service of the said notice, or such longer period as the Collector may think fit to allow.

After the expiration of the said month or other period, the Collector shall proceed to inquire into any objections which may have been made, and to

pass such order as he may think fit in respect to the inclusion of the said lands in the said estate for the purposes of this Act.

Collector may register lands as a revenue-free estate and call on proprietor to apply for registration.

35. Whenever it shall appear to the Collector that any land which is not entered on the general register as a separate revenue-free property should be entered on the register as such property, he may cause a notice to be served in the manner prescribed by section 50, calling on the person in possession of such land as proprietor or manager to shew cause why such land should not be so registered as a revenue-free property; and if after hearing any objections (which may be preferred within a month of the service of the said notice, or such longer period as the Collector may think fit to allow), and after making such further inquiry as may be necessary, the Collector shall be of opinion that the land should be so registered, he shall enter such land on the general register as a revenue-free property, and by a notice served as prescribed in section 50, as well as by a general notice published as prescribed in section 49, shall require every proprietor and manager of such revenue-free property to apply for registration of his name and of the character and extent of his interest as such proprietor or manager, and thereupon every such proprietor and manager shall be deemed, for the purposes of section 68, to be a person who is required by this Act to apply for the registration of his name; and all the provisions of Part IV of this Act, so far as may be practicable, shall apply to every such person:

Provided that no such proprietor or manager shall be liable to any fine under section 65 until after the expiration of three months from the date on which the last-mentioned notice shall have been served:

Provided also that no land shall be entered as a revenue-free property in Part I of the general register of revenue-free lands until the circumstances of the case shall have been reported to the Board, and until the Board shall have sanctioned such entry.

Board to decide what lands to be included in each revenue-free property.

36. The Board may decide what revenue-free lands shall be included in each revenue-free property to be registered as such under this Act, and may from time to time direct that lands which are borne on the register as forming one revenue-free property shall be divided and entered on the register as forming two or more such properties; and may similarly direct that revenue-free lands which are borne on the register as forming two or more revenue-free properties, shall be united and entered as forming one revenue-free property.

The Board may also direct that any lands which are improperly borne upon the general register of revenue-free lands shall be removed from such register, or shall be omitted from any new register of such lands which may be prepared.

Collector may serve notice for inclusion

37. Whenever it shall appear to the Collector that any land which is not included in any revenue-free property entered in the existing general register,

of lands in revenue-free property.

should be included in any such property for the purposes of this Act, the Collector may cause a notice to be served on the person believed to be in possession of such lands in the manner prescribed by section 50, and a general notice to be published as prescribed by section 49, to the effect that such lands will be so included if no objection be made within one month of the service of the said notice, or such longer period as the Collector may allow.

At the expiration of the said month or of such period, the Collector shall proceed to inquire into any objections which may have been made, and to pass such order as he may think fit in respect to the inclusion of the said lands in the said property for the purposes of this Act.

PART IV.

Of the Registration and Mutation of Names.

Proprietor and manager to register within specified time.

38. Every proprietor of an estate or revenue-free property, or of any interest therein, respectively, being in possession of such estate, property or interest, at the commencement of this Act,

every joint proprietor of an estate or revenue-free property being in charge of such estate or property, or of any interest therein, respectively, on behalf of the other proprietors thereof, at the commencement of this Act,

and every person being manager of an estate or revenue-free property, or of any interest therein, respectively, on behalf of a proprietor thereof, at the commencement of this Act,

shall, if his name and the character and extent of his interest have not already been registered, make application in the manner hereinafter provided for the registration of his name and of the character and extent of his interest as such proprietor or manager, to the Collector of the district on the general register of which such estate or property is borne, or to any other officer who may have been empowered by the Collector to receive such application, within such time as the Lieutenant-Governor may fix as hereinafter provided.

Lieutenant-Governor to fix date before which proprietor and manager must apply for registration.

39. The Lieutenant-Governor shall, within six months from the commencement of this Act, fix for each district the date or dates before which such proprietors and managers, being in possession of estates or revenue-free properties, or of any interest therein, respectively, at the commencement of this Act, shall be required to apply for registration of their names, and of the character and extent of their interests, under the last preceding section, and may at any time alter any date so fixed, provided that no date so fixed shall be later than five years after the said commencement.

Lieutenant-Governor may fix different

40. The Lieutenant-Governor may in any district, for the purposes of the last preceding section, fix different dates in respect of estates and revenue-free

properties, or in respect of different classes of estates and revenue-free properties, or in respect of different portions of the district: dates in respect of different estates.

Provided that no person shall incur any penalty or disability under this Act for failure to apply for registration of his name as such proprietor or manager as aforesaid, until after the lapse of six months from the date on which the notice prescribed by the next succeeding section shall have been published in respect of his estate or property, or in respect of the class of estates or revenue-free properties within which his estate or property falls or in respect of the portion of the district in which his estate or revenue-free property is situated.

41. Every date fixed by the Lieutenant-Governor as provided in the two last preceding sections shall be published by a notice in the *Calcutta Gazette*; Publication of date fixed by Lieutenant-Governor.

and also by notices to be posted up

at the Court or office of the Judge, the Magistrate and the Collector of the district, in respect of which such date is fixed;

at the Court or office of every Munsif, sub-divisional officer, and Sub-Registrar of Assurances in such district;

and at every Police-station in such district;

and by proclamation to be made by beat of drum at the head-quarters of such district, and in every place in which a sub-divisional office is situated, and in such other places as the Lieutenant-Governor may direct.

The officer in charge of every Court, office and Police-station at which a notice is required to be posted up under this section shall certify to the Collector the date on which the notice was so posted up at his Court, office or Police-station, and the latest date so certified shall be deemed to be the date of publication of the notice for the purposes of the two last preceding sections.

42. Every person succeeding, after the commencement of this Act, to any proprietary right in any estate or revenue-free property, whether by purchase, inheritance, gift or otherwise; Persons succeeding to proprietary right in, or management of, estates to give information within six months.

every joint proprietor of an estate or revenue-free property, assuming charge after such commencement of such estate or property, or of any interest therein respectively, on behalf of the other proprietors thereof;

and every person assuming charge after such commencement of any estate or revenue-free property, or of any interest therein respectively as manager,

shall, within six months from the date of such succession or assumption of charge, make application in the manner hereinafter provided to the Collector of the district on the general register of which such estate or property is borne, or to any other officer who may have been empowered by such Collector to receive such applications, for registration of his name and of the character and extent of his interest as such proprietor or manager.

43. Notwithstanding anything contained in section 38 or the last preced- Lieutenant-

Governor may exempt proprietors from obligations imposed by Act.

ing section, the Lieutenant-Governor may in any district exempt proprietors and managers of all or any estates which are liable to pay less than twenty rupees of land-revenue annually, and proprietors and managers of all or any revenue-free properties which consist of less than fifty acres of land, from the obligations imposed by this Act in respect of applying for registration of their names, and may at any future time withdraw such exemption and require such proprietors and managers to register their names.

Mortgagee may apply for registration.

44. Every person who holds a mortgage of any proprietary right in any estate may apply to the Collector for registration of his name as such mortgagee, and of the interest in respect of which he is such mortgagee; and in such application shall specify whether he or the mortgagor is in possession.

On receipt of such application the Collector shall proceed, as far as possible, according to the manner hereinafter prescribed in respect of applications for registration as proprietor.

Presentation of application.

45. Any application for registration under this Act may be presented by the applicant or by some person duly authorized by him in that behalf.

Manager to specify extent of interest of each person for whom he manages.

46. If the applicant under section 38 or section 42 is a joint proprietor in charge as aforesaid, or a manager, he shall in his application specify the name of the person or persons on behalf of whom he is in such charge or on behalf of whom he is manager, and the character and extent of the interest of every such person.

Collector when to register applicant for registration as manager appointed by authority.

47. If the application under section 38 or section 42 be for registration of the name of the applicant as manager appointed by the Collector, the Court of Wards, or by any civil or criminal Court, the Collector shall register the name of the applicant, on proof being produced to his satisfaction that the applicant has been so appointed to be such manager.

Notice to objectors.

48. If the application be for registration otherwise than as manager appointed as mentioned in the last preceding section, and if it sets forth circumstances which would justify the Collector in registering the name of the person whose name is required to be registered, or if after further inquiry the Collector considers that such circumstances exist, he shall issue a notice requiring all persons who object to the registration of the name of the person whose name is required to be registered, or who dispute the character or extent of the interest in respect of which it is required to be registered, to give in a written statement of their objections, and to appear on a day to be specified in such notice, not being less than one month from the date of the publication thereof.

Publication of notice.

49. Such notice shall be published by affixing a copy of the same on or at all the following places:—

(*a*) the zamíndárí kachahrí (if any) of the estate or other place at which the rents are ordinarily received;

(*b*) some conspicuous place in at least one village appertaining to the estate to which the application relates, and if the estate comprises lands situated in more than one local division, then in at least one village in each local division containing such lands;

(*c*) the office or Court of every Collector, sub-divisional officer, Judge and Munsif within whose jurisdiction, and every Police-station within the jurisdiction of which, any of the lands to which the application relates are known to be situated.

Notice to transferor.

50. If the application alleges that the applicant has acquired possession of the interest in respect of which he applies to be registered by transfer from any living person, a copy of such notice shall be served on the alleged transferor by tendering to the person to whom it may be directed a copy thereof attested by the Collector, or by delivering such copy at the usual place of abode of such person, or to some adult male member of his family; or in case it cannot be so served, by posting such copy upon some conspicuous part of the usual or last known place of abode of such person.

In case such notice cannot be served in any of the ways hereinbefore mentioned, it shall be served in such way as the Collector issuing such notice may direct.

No fees or other costs shall be payable by the applicant in respect of the service or publication of the notice prescribed by this and the last preceding section.

Effect of irregularity in publication or service of notice.

51. No irregularity or omission in the publication or service of notice as required by the three last preceding sections shall affect the validity of any proceedings under this Act, unless it is proved to the satisfaction of the Collector that some material injury was caused by such irregularity or omission.

Inquiry by Collector.

52. On the day fixed in the notice issued under section 48, or as soon thereafter as possible, the Collector shall consider any objections which may be advanced, and make such further inquiry as appears necessary to ascertain the truth of the alleged possession of, succession to, or transfer of, the estate, revenue-free property or interest therein, in respect of which registration is applied for; and if it appears to the Collector that the possession exists,

or that the succession or transfer has taken place, and that the applicant has acquired possession in accordance with such succession or transfer,

but not otherwise,

the Collector shall order the name of the applicant to be registered in the proper registers as proprietor or manager of the said estate, revenue-free property or interest therein:

Provided that any person to whom any proprietary right in an estate has been mortgaged, may be registered as mortgagee, whether he be in actual possession or otherwise.

Power to summon witnesses and compel production of documents.

53. For the purpose of the inquiry mentioned in the last preceding section, and of every inquiry held under this Act, the Collector may summon and enforce the attendance of witnesses and compel them to give evidence, and compel the production of documents by the same means, and as far as possible in the same manner, as is provided in the case of a civil Court by the Code of Civil Procedure.[a]

Payment of costs.

54. All costs of any inquiry or proceeding held before the Collector under this Act shall, except as provided in section 50, be payable by the parties concerned, and the Collector may pass such orders as he shall think fit in respect of the payment of such costs.

Dispute as to possession, succession or acquisition by transfer.

55. If the applicant's possession of, succession to, or acquisition by transfer of, the extent of interest in respect of which he has applied to be registered, is disputed by or on behalf of any person making a conflicting claim in respect thereof, and if it is not proved to the satisfaction of the Collector that any person is in possession of the interest in dispute, the Collector shall determine summarily the right to possession of the same,[b] and shall deliver possession accordingly, and shall make the necessary entry in the registers;

or if, in the opinion of the Collector, the dispute be one which can more properly be determined by a civil Court, the Collector shall refer the matter in dispute to the principal civil Court of the district for determination as hereinafter provided:

Provided that if the applicant's possession of any extent of interest in accordance with his application be not disputed, or if such possession be proved to the satisfaction of the Collector, the Collector may register the said applicant's name in respect of such extent of interest, and may at the same time make a reference as hereinafter provided to the civil Court for determination of any dispute as to any further extent of interest in respect of which the applicant has applied to be registered, but in respect of which the right of the applicant to be registered is disputed, and is not proved to the satisfaction of the Collector.

In cases of disputed possession, &c., Collector may appoint receiver.

56. In any case of disputed possession of, succession to, or acquisition by transfer of, the extent of any interest in respect of which application is made under the last preceding section, the Collector may appoint a receiver to collect the rents of the extent of interest in dispute, and from the sums so collected shall be paid the expenses of management and the revenue due to the Government; and the surplus shall be held in deposit in the Collector's treasury, and shall be paid over to the person who shall be registered by the Collector, or under the order of a civil Court, in respect of the extent of interest in dispute.

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[a] Act No. X of 1877.

[b] Bengal Act No. V of 1878, sec. 1.

57. Every order of a Collector passed under the first clause of section 55 shall be of the same force and effect as an order passed by the Judge under section 4 of Act XIX of 1841 (*an Act for the protection of moveable and immoveable property against wrongful possession in cases of succession*), determining summarily the right to possession and delivering possession accordingly; Effect of Collector's order.

and no proceedings shall be taken by any civil Court under the said Act in respect of any claim or dispute which has been determined by an order of the Collector as aforesaid.

58. In making a reference to the civil Court under section 55, the Collector shall state for the information of the said Court in writing under his hand Procedure on reference under section 55.

(1) the name of the estate or revenue-free property to which the reference applies, together with the numbers which it bears on the general register and (if an estate) on the revenue-roll of the district;

(2) the names of all the persons who now stand registered on the general register as proprietors, managers or mortgagees of such estate or property, with the character and extent of the interest in respect of which each stands registered;

(3) the name of the applicant for registry;

(4) the character and extent of the interest in dispute;

(5) the circumstances of the case as far as they are before the Collector, and the reasons which have led him to make the reference.

59. On receipt of such reference the said principal civil Court of the district may either proceed to determine the matter, or may transfer the matter for determination to any other competent civil Court in the district. Procedure on receipt of reference.

The said principal civil Court, or the Court to which the matter is transferred, shall cite the parties concerned, and give notice of the time at which the matter will be heard; and after expiration of the time so fixed, shall determine summarily the right to possession in respect of the interest in dispute (subject to regular suit), and shall deliver possession accordingly.

60. If it shall appear to the Judge of the Court by which the matter is heard that danger is to be apprehended of the misappropriation or waste of the property before the summary suit can be determined, such Judge may appoint curators for the care of the property, and may exercise all or any of the powers mentioned in sections 5 to 13 (both inclusive) of Act XIX of 1841. Judge may appoint curator.

61. The said Court may make such order as it shall think fit with regard to the payment by the parties of the cost of the inquiry and proceedings: Costs.

Provided that no costs shall be recoverable from the parties on account of the issue of notices citing the parties and fixing a date for the first hearing of the case.

62. The summary decision of the Court under section 59 shall have no Effect of sum-

mary decision of Court,

other effect than that of settling the actual possession; but for this purpose it shall be final, not subject to any appeal or order for review.

Court to certify its determination to Collector.

63. The Court shall certify to the Collector its determination as to the right of possession, and the Collector shall thereupon make the necessary entries in the proper registers.

Collector to levy fees on transfers.

64. Fees at the following rates shall be levied by the Collector on the registry under this Act of any transfer—

(1) in the case of revenue-paying lands, one quarter or four annas per centum on the annual revenue payable to Government from the extent of interest transferred;

(2) in the case of revenue-free lands, two and a half per centum on the amount of the annual produce of the extent of interest transferred, such annual produce being the amount of the rents received and receivable on account of the year preceding the year in which the transfer may be registered;

provided that no fee for the registry of any one transfer shall exceed one hundred rupees.

Such fees shall be levied from the person in whose favour the transfer is registered.

All fees levied under this section shall be carried to the account of Government.

Penalty for omitting to comply with Act.

65. Whoever, being required by this Act to apply for the registration of his name and the extent of his interest in any estate or revenue-free property, voluntarily or negligently omits to make such application within the prescribed time, shall be liable to such fine as the Collector may think fit to impose, not exceeding one hundred rupees for such omission, and to such further daily fine as the Collector may think fit to impose, not exceeding fifty rupees, for each day during which such person shall omit to apply for such registration after a date to be fixed by the Collector in a notice requiring such person to apply for registration.

Such notice shall be served in the manner prescribed in section 50, and the date before which such person is required to apply for registration shall not be less than one month after service of such notice.

Fine may be levied notwithstanding appeal.

66. The Collector may proceed from time to time to levy any amount which has become due in respect of any such fine, notwithstanding that an appeal against the order imposing such fine may be pending:

Provided that, whenever the amount levied under any such order shall have exceeded five hundred rupees, the Collector shall report the case specially to the Commissioner of the division, and no further levy in respect of such fine shall be made otherwise than by authority of the said Commissioner.

No penalty on person who applies *suo motu*.

67. Notwithstanding anything contained in section 65, no fine shall be imposed by the Collector under the said section on any person on the ground that such person has failed to make application for registration of his name within the time fixed by the Lieutenant-Governor under section 39 or 40,

or on the ground that such person has failed to apply for registration of his name within the time prescribed by section 42,

if such person shall, at any time after the expiration of the time fixed or prescribed as aforesaid, of his own motion, and otherwise than after the issue of a requisition by the Collector in that behalf, present such application as is required by this Act for the registration of his name, and of the character and extent of his interest.

Liabilities of proprietors and managers.

68. Save as is provided in section 90 of the Code of Criminal Procedure, all the recorded proprietors and managers of an estate or revenue-free property shall be deemed to be jointly and severally liable for the discharge of any duties and obligations which are by any law for the time being in force imposed upon the proprietors of such estate or property;

and all persons who are required by this Act to apply for registration shall, from the date on which the obligation so to register is imposed on them respectively by this Act, be deemed to be liable for the discharge of any duties and obligations which are by any such law as aforesaid imposed upon the proprietors of the estate or property in respect of which they are required to apply for registration respectively.

PART V.

Of the Opening of separate Accounts in respect of Shares.

Opening of separate account of share of applicant under Act XI, 1859.

69. Notwithstanding anything contained in Act XI of 1859[a] (*an Act to improve the law relating to sales of land, &c.*), from the commencement of this Act no separate account shall be opened under the provisions of section 10 or of section 11 of the said Act in respect of the share of any applicant under the said sections otherwise than for a share corresponding with the character and extent of interest in the estate in respect of which such applicant is recorded as proprietor or manager under this Act.

Proprietor holding undivided interest in specific lands may apply for separate account.

70. When a proprietor of a joint estate, who is recorded as proprietor of an undivided interest held in common tenancy in any specific portion of the land of the estate, but not extending over the whole estate, desires to pay separately the share of the Government-revenue which is due in respect of such interest, he may submit to the Collector a written application to that effect.

[a] See *supra*, p. 393.

The application must contain a specification of the land in which he holds such undivided interest, and of the boundaries and extent thereof, together with a statement of the amount of Government-revenue heretofore paid on account of such undivided interest.

On the receipt of this application the Collector shall cause it to be published in the manner prescribed for publication of notice in section 10 of Act XI of 1859.[a]

In the event of no objection being urged by any recorded co-sharer within six weeks from the time of publication, the Collector shall open a separate account with the applicant, and shall credit separately to his share all payments made by him on account of it.

The date on which the Collector records his sanction to the opening of a separate account shall be held to be that from which the separate liabilities of the share of the applicant commence.

Sections 12, 13 and 14 of Act XI of 1859 applied.

71. Section 12 of the said Act XI of 1859 shall apply to every application made under the last preceding section; and the effect and consequences of opening a separate account under the last preceding section shall be such and the same as are described in section 13 and in section 14 of Act XI of 1859.

Application to close separate account.

72. Whenever any share in respect of which a separate account has been opened by the Collector under section 10 or section 11 of the said Act XI of 1859, or under section 70, shall no longer correspond with the character and extent of interest held in the estate by any one proprietor or manager, or jointly by two or more proprietors or managers, any proprietor or manager whose name is borne on the general register under this Act as proprietor or manager of any interest in the share in respect of which such separate account is open, may submit to the Collector a written application setting out the circumstances under which such share no longer corresponds with the extent of interest held in the estate by any recorded proprietor or manager, or jointly by two or more recorded proprietors or managers, and specifying the manner in which such share has become broken up and distributed among the proprietors of the estate, and praying that the separate account standing open in respect of such share shall be closed, and, if he so desire, praying that another separate account be opened in respect of any other share or shares which were wholly or partly included in the share in respect of which the previous separate account was open.

Illustration.

In a certain estate separate accounts have been opened under section 10 of Act XI of 1859 for the 4 annas share of A, and also for the 5 annas share of B, the accounts of the remaining 7 annas share being kept jointly in the names of the remaining proprietors C, D and E.

[a] See *supra*, p. 393.

In course of time X has inherited A's 4 annas share, and also C's interest in the 7 annas share, which amounted to 3 annas; X has also acquired by purchase 2 annas out of B's 5 annas share, so that the interests in the estate are now distributed as follows:—

X	...	...	...	9 annas.
B	...	...	...	3 „
D & E	...	...	...	4 „

X, if a recorded proprietor of the estate, may apply to the Collector to close the separate account which is open in respect of A's 4 annas share, and also the separate account which is open in respect of B's 5 annas share, as neither of these shares corresponds with the extent of interest held by any one proprietor, or held jointly by two or more proprietors in the estate;

and in the same application X may apply for the opening of a separate account in respect of the 9 annas share which he now holds.

Any of the other proprietors might also make a similar application.

Separate account may be closed and another opened.

73. On receipt of such application the Collector shall cause a copy of the same to be published in the manner provided in section 10 of Act XI of 1859;[a] and if within six weeks from the date of such publication no objection is made by any other recorded proprietor of the estate, the Collector shall close the separate account which then stands open, and shall open a separate account with the applicant as required by him, under section 10, or section 11 of Act XI of 1859, or under section 70, as the case may be.

Procedure in case of objection.

74. If any recorded proprietor of the estate, whether the same be held in common tenancy or otherwise, object that the share in respect of which any separate account is open as aforesaid has not been broken up, and does still correspond with the character and extent of interest held by any one proprietor or manager, or jointly by two or more proprietors or managers,

or object that the applicant has no right to the share claimed by him, or that his interest in the estate is less or other than that claimed by him,

or (when the application is in respect of a specific portion of the land of an estate, or in respect of an undivided interest held in common tenancy in any specific portion of the land of the estate), object that the amount of Government-revenue stated by the applicant to have been heretofore paid on account of such portion of land, or on account of the applicant's undivided interest therein, is not the amount which has been recognized by the other sharers as the Government-revenue thereof,

the Collector shall refer the parties to the civil Court, and shall suspend proceedings until the question at issue is judicially determined.

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[a] See *supra*, p. 393.

PART VI.

MISCELLANEOUS.

Collector to furnish extract from register.

75. The Collector shall supply an extract from any register mentioned in this Act to any person who may apply for the same, subject to the payment of such fees for searching and copying as may be prescribed by the Board.

Collector to furnish translation of extract.

76. If in any district any register prescribed by this Act has not been prepared and kept up in the vernacular language and character of the district, the Collector shall be bound, together with any English extract which may be furnished under the last preceding section, to furnish a translation of the same in the vernacular language and written in the vernacular character of such district to any one who may demand such translation, and no further charge shall be made in respect of the furnishing of such translation than might have been charged in respect of the English extract furnished under the said section.

Changes in names of proprietors, &c., and extent of interest to be notified on estate.

77. Whenever any change shall be made by order of competent authority in the names of the recorded proprietors or managers of any estate or revenue-free property, or in the character or extent of the interest of any such proprietor or manager as entered in any register mentioned in this Act, so soon as the order under which such change in the entry may have been made shall have been confirmed on appeal, or so soon as the period for presenting an appeal against such order shall have expired without the presentation of an appeal, the Collector shall cause a notice of such change to be posted up at his office, at the office of every sub-divisional officer within whose jurisdiction any lands of the estate or revenue-free property concerned are situated, and at such places as he may think fit on the estate or property; and every such notice shall set out the name of every proprietor and manager of the estate or revenue-free property concerned, and the character and extent of the interest of every such proprietor and manager as it stands recorded on the general register on the date of the issue of the notice.

No person bound to pay rent to claimant not registered.

78. No person shall be bound to pay rent to any person claiming such rent as proprietor or manager of an estate or revenue-free property in respect of which he is required by this Act to cause his name to be registered, or as mortgagee, unless the name of such claimant shall have been registered under this Act;

Payment to each of several proprietors, &c., holding in common tenancy.

and no person being liable to pay rent to two or more such proprietors, managers or mortgagees holding in common tenancy, shall be bound to pay to any one such proprietor, manager or mortgagee more than the amount which bears the same proportion to the whole of such rent as the extent of the interest in respect of which such proprietor, manager or mortgagee is registered bears to the entire estate or revenue-free property.

Indemnity to persons paying rent to registered proprietor.

79. The receipt of any proprietor, manager or mortgagee, whose name and the extent of whose interest is registered under this Act, shall afford full indemnity to any person paying rent to such proprietor, manager or mortgagee.

Payment of sums payable by Collector to proprietors jointly.

80. Whenever any sum of money shall be payable by the Collector to the proprietors of any estate or revenue-free property jointly (otherwise than under the Land Acquisition Act, 1870), the Collector may pay to any one or more recorded proprietors or managers thereof respectively such portion of the said sum as may be proportionate to the extent of the interest in respect of which each such proprietor or manager is registered, and the receipt of each such proprietor or manager shall afford full indemnity to the Collector in respect of any sum so paid.

Saving of written contracts and recovery from person receiving money.

81. Nothing contained in the three last preceding sections shall be held to interfere with the conditions of any written contract, or to prevent any person deeming himself entitled to any sum of money from recovering such sum by due process of law from any other person who has received the same.

Every amount due deemed a demand under Bengal Act VII of 1868.

82. Every amount which may become due to the Collector under the provisions of this Act in respect of any expenses incurred, of any fees payable, of any notices served, of any costs payable by any party, or of any fines imposed, shall be deemed to be a demand under section 1 of Bengal Act VII of 1868[a] (*an Act to make further provision for the recovery of arrears of land-revenue and public demands recoverable as arrears of land-revenue*), and shall be leviable as such.

Collector may require proprietor to name estate.

83. The Collector may by a notice require the proprietor or manager of any estate or revenue-free property to name such estate or property by a distinctive name, and in case of failure of such proprietor or manager to comply with the requisition within the time fixed by the Collector, may name such estate or property.

Collector may delegate duties.

84. The Collector may, by a special or a general order, delegate to any Assistant Collector, Deputy Collector or Sub-Deputy Collector, the performance of any duty, and the exercise of any function, which the Collector is required or empowered to perform or exercise under this Act, except in respect of appeals;

and any Assistant, Deputy or Sub-Deputy Collector to whom any duty or function is so delegated, may exercise all the powers of a Collector under this Act, except in respect of appeals.

Appeal.

85. Every order passed under this Act by any revenue-officer below the rank of the Collector of the district (not being an officer specially vested with appellate powers as hereinafter mentioned) shall be appealable to the Collector

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[a] See *supra*, p. 582.

of the district, or to any officer who may have been specially vested by the Government with special appellate powers in this behalf;

and there shall be no further appeal from any order so passed in appeal confirming the order appealed against;

but an appeal shall lie to the Commissioner of the division against every order so passed in appeal which modifies or reverses the order appealed against.

Every order passed by the Collector of the district, or by any officer specially vested with appellate powers as aforesaid, being passed otherwise than on appeal from the order of another officer, shall be appealable to the Commissioner of the division.

Every appeal to the Collector shall be presented within fifteen days of the date of the order appealed against;

and every appeal to the Commissioner shall be presented to the Commissioner, or to the Collector for transmission to the Commissioner, within thirty days of the order appealed against;

and every appeal presented after the lapse of the time fixed by this section may be summarily rejected, unless sufficient cause shall be shewn to the satisfaction of the appellate authority for admitting the appeal after the lapse of such time.

Every order passed by any officer subordinate to a Commissioner shall be subject at any time to revision and modification by such Commissioner;

and every order passed by any such officer or by such Commissioner shall be subject at any time to revision and modification by the Board.

Exclusion of time in case of appeals.

86. In computing the period of limitation prescribed for an appeal, the day on which the order complained of was made, and the time requisite for obtaining a copy of the same, shall be excluded.

Lieutenant-Governor may vest officer with special appellate powers.

87. The Lieutenant-Governor may from time to time vest any officer other than the Collector of the district with special appellate powers under this Act; and every officer so vested shall be competent to hear and decide any appeal which the Collector of the district is competent to hear and decide under this Act.

Board may make certain rules.

88. Within four months of the date on which this Act comes into force, the Board shall make general rules consistent with this Act to regulate

the form in which registers under this Act are to be kept;

the procedure as to the presentation, admission and verification of applications for registration under Part IV, and as to inquiries under section 52,

and generally for the purposes of this Act.

The Board may from time to time cancel or alter any such rules.

Saving clause.

89. Nothing contained in this Act, and nothing done in accordance with this Act, shall be deemed to

(*a*) preclude any person from bringing a regular suit for possession of, or for a declaration of right to, any immoveable property to which he may deem himself entitled;

(*b*) render the entry of any land in the registers under this Act as revenue-free an admission on the part of Government of the right of the person in whose name such land may be entered, or an admission of the validity of the title under which the said land is held revenue-free;

(*c*) affect the rights of the Government or of any person in respect of any immoveable property or of any interest, except as otherwise expressly provided herein.

SCHEDULE OF REGULATIONS REPEALED.

(*See section 2*).

Number and year.	Subject or abbreviated title.	Extent of repeal.
XIX of 1793 ...	Non-bádsháhí lákhiráj grants...	Sections 21, 22, 29 to 34; sections 36 to 41; so much of sections 42 and 43 as have not been repealed; sections 44 to 46, all inclusive.
XXXVII of 1793 ...	Bádsháhí lákhiráj grants ...	Sections 16 to 18, 24, 26 to 29, 31 to 33, 35, 36, so much of section 37 as has not been repealed, section 38, so much of section 39 as has not been repealed, sections 40 to 41, all inclusive.
XLVIII of 1793 ...	A Regulation for forming a quinquennial register, &c.	So much as has not been repealed.
LVIII of 1795 ...	Granting to the Collectors a commission on the jama of certain lands.	So much as has not been repealed.
XV of 1797 ...	Levying fees, &c.... ...	The whole.
VIII of 1800 ...	Pargana-register... ...	So much as has not been repealed, except section 19.

ACT No. VIII OF 1876.

Received the Lieutenant-Governor's assent on the 26th of August 1876, and the Governor General's assent on the 18th of September 1876.

An Act to make better provision for the Partition of Estates.

Preamble. WHEREAS it is expedient to consolidate and amend the law relating to the partition of estates; It is enacted as follows:—

PART I.

PRELIMINARY.

Short title. **1.** This Act may be called the "Estates' Partition Act, 1876:"

Local extent. It extends to the territories for the time being under the administration of the Lieutenant-Governor of Bengal;

Commencement. And it shall come into force from the date on which it may be published in the *Calcutta Gazette* with the assent of the Governor General,[a] which date is hereinafter referred to as the commencement of this Act.

Laws repealed. **2.** On the commencement of this Act, the Regulations and Acts specified in the schedule hereto annexed, to the extent mentioned in the third column thereof, shall cease to have effect in the territories subject to the Lieutenant-Governor of Bengal, save so far as they repeal or modify any other Regulations or Acts, and save so far as regards the partition of any estate which shall be pending at the time of the said commencement.

The partition of any estate which shall be pending at the time of the commencement of this Act shall (except as provided in the next succeeding section) proceed and be completed in the same manner as if this Act had not been passed.

Provisions applicable to partition-cases pending at time of commencement. **3.** The provisions of this Act, so far as they relate to the continuation of a partition from the point which it has reached, or to the staying of the partition of an estate, or to striking a partition-case off the file, may be applied, at the discretion of the Collector, in all cases of partition of estates pending at the time of the commencement of this Act; provided that, before applying such provisions to the continuation of a partition, the Collector give due notice in each case to the parties concerned that such provisions will be applied.

Interpretation-clause. **4.** In this Act—unless there be something repugnant in the subject or context—

"Amín." (i) "Amín" means a person who is appointed by the Collector or Deputy

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[a] 4th October, 1876.

Collector to make any measurement, survey or local inquiry, or to prepare the papers showing the result of any measurement, survey or local inquiry:

(ii) "applicant" means any person who has applied to the Collector under the provisions of this Act for the separation from the parent-estate of lands representing his interest in such parent-estate, and for the assignment to him of such lands as a separate estate liable for a demand of land-revenue distinct from that for which the parent-estate is liable: "Applicant."

(iii) "assets of land" include the rental of the land with respect to which the expression is used, and all profits derived by the proprietors out of such land from rights of pasturage, forest-rights, fisheries and all other legal sources: "Assets of land."

(iv) "assets of an estate" mean the assets of all land included in an estate: "Assets of an estate."

(v) "Board" means the Board of Revenue for the Provinces for the time being subject to the Lieutenant-Governor of Bengal: "Board."

(vi) "chapter" means a chapter of this Act: "Chapter."

(vii) "Deputy Collector" includes any Assistant Collector, Deputy Collector or Sub-Deputy Collector whom the Collector may appoint (as he is hereby empowered to do) to effect a partition and allotment of assessment under this Act, or to conduct any of the proceedings connected with such partition and allotment: "Deputy Collector."

(viii) "estate" means all lands which are borne on the revenue-roll of a Collector as liable for the payment of one and the same demand of land-revenue: "Estate."

(ix) "joint undivided estate" means all lands which are borne on the revenue-roll of a Collector as liable for the payment of one and the same demand of land-revenue, and of which two or more persons are proprietors: "Joint undivided estate."

(x) "land" does not include the houses and buildings standing thereon: "Land."

(xi) "Lieutenant-Governor" means the Lieutenant-Governor of Bengal for the time being, or the person acting in that capacity: "Lieutenant-Governor."

(xii) "parent-estate" means any estate for the partition of which proceedings may be in progress under this Act, or of which the partition may have been effected under this Act: "Parent-estate."

(xiii) "proprietor" includes every person who is in possession of any estate under partition, or of any portion of such estate, or of any interest in such estate, or in any part of such estate, as owner thereof, whether such person be or be not a recorded proprietor of the estate: "Proprietor."

(xiv) "recorded proprietor" means a person whose name is registered on the Collector's general register of revenue-paying lands as proprietor of an estate, or of any share or interest therein: "Recorded proprietor."

"Section." (xv) "section" means a section of this Act:

"Separate estate." (xvi) "separate estate" means any distinct estate which may be formed by the partition of a parent-estate under this Act, or for the formation of which proceedings may be in progress under this Act:

"The Collector." (xvii) "the Collector" means the Collector of the district on the revenue-roll of which the estate under partition, or which it is proposed to bring under partition, is borne, and includes any officer whom the Board may generally vest (as it is hereby empowered to do) with the powers of a Collector under this Act, and to whom the Collector of the district has, with the sanction of the Commissioner, delegated (as he is hereby empowered to do) any of his duties and functions in respect of the partition of any estate; and any officer whom the Board may specially vest (as it is hereby empowered to do) with the powers of a Collector for the purposes of any partition under this Act:

"The Commissioner." (xviii) "the Commissioner" means the Commissioner of Revenue to whom the Collector engaged in making the partition is subordinate.

Future partitions to be made under provisions of Act. **5.** All partitions of estates which shall be ordered to be made after the commencement of this Act, shall be made under the provisions of this Act, and no such partition made otherwise than under this Act shall relieve any lands from liability to Government for the total demand of land-revenue assessed upon the estate of which they form a part.

Revenue to be assessed on each separate estate. **6.** The amount of land-revenue assessed on each separate estate shall bear the same proportion to the whole amount of land-revenue for which the parent-estate was liable, as the assets of such separate estate bear to the whole assets of the parent-estate.

Definition of rental. **7.** Except as hereinafter otherwise expressly provided, the average of the amount of rent which was payable for any land by the cultivating raiyats during the three years immediately preceding the year in which proceedings are taken under this Act for the partition of the estate shall, for the purposes of this Act, be deemed to be the rental of such land;

and if any land is not let, but is held and occupied directly by the proprietors or any of them, the annual rent for which such land might reasonably be expected to let shall be deemed to be the rental of such land.

Exception 1.—If the rent payable by the cultivating raiyats on account of any land shall have been determined by any Court of competent jurisdiction, or shall have been altered with the consent of the said raiyats at any time during the said three years, the amount so determined, or the amount to which the rent may have been so altered, may, if the Collector think proper, be deemed to be the rental of the land.

Exception 2.—If any land is held on a permanent tenure which was created

by all the proprietors of the estate, and which by any law for the time being in force is protected against the purchaser at a sale for arrears of revenue, the rent payable by the holder of such tenure shall be deemed to be the rental of such land.

Exception 3.—If any land is held on a tenure which, although not protected as aforesaid, is admitted by all the recorded proprietors of the estate to be a permanent tenure created by all the proprietors of the estate, subject only to the payment of an amount of rent fixed in perpetuity, and of such nature that the rent thereof is not liable to be enhanced under any circumstances by the proprietors of the said estate, or any person deriving his title from such proprietors, the rent payable by the holder of such tenure (whether he be known as taluqdár, patnídár, mukarrarídár, or by any other designation) shall be deemed to be the rental of such land.

Exception 4.—If any land be unoccupied, such amount as the Collector may determine, with reference to all the circumstances of the case, shall be deemed to be the rental of such land.

PART II.

Of the Right to claim Partition.

Who entitled to claim partition.

8. Except as hereinafter otherwise provided, every recorded proprietor of a joint undivided estate, who is in actual possession of the interest in respect of which he is so recorded, is entitled to claim a partition of the said estate, and the separation therefrom and assignment to him as a separate estate of lands representing the interest of which he is in such possession; provided that, and as far only as, such partition, separation and assignment can be made in accordance with the provisions of this Act.

Any two or more such recorded proprietors may claim that lands representing the interests of all such claimants may be formed into one separate estate, to be held by them as a joint undivided estate; and every provision of this Act which applies to an applicant for partition shall apply to any two or more persons making such joint claim.

Partition according to interest.

9. (*a*) If the interest of any recorded proprietor who is entitled to claim partition as aforesaid is an undivided share in an estate held in common tenancy, such person shall be entitled to have assigned to him as his separate estate lands of which the assets shall bear the same proportion to the assets of the parent-estate as his undivided share in the parent-estate bears to the entire parent-estate.

(*b*) If the interest of such recorded proprietor is the proprietary right of

certain specific mauzas or lands forming part of the parent-estate, and held by him in severalty, he shall be entitled to have assigned to him as his separate estate the said mauzas or lands.

(*c*) If the interest of such recorded proprietor consists of an undivided share held in common tenancy in certain specific mauzas or tracts forming part of the parent-estate, but not extending over the whole area of the parent-estate, he shall be entitled to have assigned to him as his separate estate lands situated within such specific mauzas or tracts, of which the assets shall bear the same proportion to the assets of such specific mauzas or tracts as his undivided share in such specific mauzas or tracts bears to the entire mauzas or tracts:

Provided that, if the interest of such recorded proprietor consists of such undivided share in more than one mauza or tract, he shall not be entitled to have lands assigned to him in every such mauza or tract, but the Collector may assign to him as his separate estate lands situated in any one or more of the said mauzas or tracts, provided that the assets of such lands are in proportion to the aggregate of the interests which he holds in all such mauzas or tracts.

(*d*) If such recorded proprietor holds in the parent-estate more than one of the kinds of interest specified in this section, lands shall be assigned to him as far as possible in accordance with the principles above laid down.

Life-estate.

10. Notwithstanding anything hereinbefore contained, no person having a proprietary interest in an estate for the term of his life only shall be deemed to be a person entitled to claim partition under this Act.

Partition of permanently-settled estate when allowed.

11. No application for the partition of a permanently-settled estate shall be admitted, and if the application shall have been admitted, no partition shall be carried out in accordance with such application, if the separate estate of any of the proprietors would be liable for an annual amount of land-revenue not exceeding one rupee, until the proprietor of such separate estate agrees to redeem the amount of revenue for which his estate would be liable, by payment of such sum as the Lieutenant-Governor may fix with reference to the circumstances of such estate.

Partition of estate privately divided, when to be made.

12. Whenever a division of the lands of any estate has been made by private arrangement of the proprietors thereof, and in accordance with such arrangement each proprietor is in possession of separate lands held in severalty as representing his interest in the estate, no such estate shall be brought under partition, and no partition of such estate shall be made under this Act, otherwise than on a joint petition presented under section 101 or section 105 by all the proprietors thereof, unless such partition shall have been ordered to be made by a civil Court.

When Collector may refuse formation of lands held in severalty into separate estate.

13. The Collector may refuse to admit an application for the formation of lands held in severalty into a separate estate, if in consequence of such lands being intermingled with those held by other proprietors the result of the partition would be to form out of a compact estate one or more estates consisting of scattered parcels of land in such a way as, in the opinion of the Collector, to endanger the safety of the land-revenue, and the Collector may at any time refuse to proceed with a partition which would have such a result.

But a partition may be allowed in such a case if the recorded proprietors shall agree to such a distribution of land as shall make the estates formed by the partition reasonably compact.

Nothing in this section shall be understood to prohibit the partition into separate estates of a parent-estate which before such partition is not compact and consists only of scattered parcels of land.

Interest alienated with special condition as to revenue-liability.

14. No proprietor who has alienated any portion of his interest in an estate, or in any specific lands of an estate, by private contract, with the condition that the transferee shall be liable in respect of the interest acquired by him to pay a specified amount or a specified share of the land-revenue for which the estate is liable (such amount or share being other than the proportionate amount or the proportionate share for which such transferred interest if formed into a separate estate would be liable under the provisions of section 6);

and no proprietor who has derived his title from any proprietor who has made any alienation as aforesaid,

shall be entitled to claim a separation under this Act of the interest which he continues to hold in the estate;

and no such transferee as aforesaid, and no person deriving his title from such transferee, shall be entitled to claim a separation of the interest which has been so acquired:

Provided that a separation of such interests may be made if the parties concerned agree to waive the conditions of the contract as regards the proportion of revenue for which the transferor and transferee or their representatives respectively are liable, and to hold the estates which may be allotted to them respectively by the partition subject to the payment of such amount of land-revenue as may be assessed upon them respectively by the Revenue-authorities under this Act.

Arrears of revenue may be realized by sale of parent-estate.

15. Notwithstanding that a parent-estate may have been declared to be under partition as provided in section 31, any arrears of revenue accruing due on such estate before the date specified in the notice issued under section 123 may be realized by sale of the parent-estate as if such estate had not been declared to be under partition; and if such sale takes place, the partition-proceedings shall cease from the date thereof.

Shares may be protected from liability for arrears under laws in force.

16. Nothing contained in the last preceding section shall be deemed to affect the provisions of sections 10, 11, 12, 13 or 14 of Act XI of 1859[a] (*an Act to improve the law relating to sales of lands for arrears of revenue*), or any provisions of any similar law for the time being in force in respect to the opening of separate accounts for different shares in an estate, and the protection afforded to such shares thereby :

Provided that, if any share in any estate is sold for its own arrears of revenue while such estate is under partition in accordance with the provisions of this Act, such share shall be sold subject to the partition-proceedings, which shall proceed as if no such sale had taken place; and the purchaser of the share sold may, from the date of such sale, exercise all the rights which the proprietor whose share he has purchased might have exercised, and shall be subject to all the liabilities to which such proprietor would have been subject in respect of the partition-proceedings.

PART III.

Of the Application for the Partition; the Admission of an Estate to Partition; and the Discontinuance of the Partition-proceedings after such Admission.

Application for partition to be made to Collector of district.

17. All applications for partition shall be made to the Collector of the district on the revenue-roll of which the estate is borne, and shall be made in person, or by duly authorized agent, on paper bearing such stamp as may be required by any law for the time being in force.

Application to be signed, and particulars specified.

18. The application shall be signed by the applicant, and shall supply the following information in regard to the parent-estate, so far as the particulars are known to the applicant or can be ascertained by him :—

(*a*) name of the estate ;

(*b*) number under which the estate is borne on the revenue-roll, and the revenue-demand for which it is liable;

(*c*) number under which the estate is borne on the Collector's general register of revenue-paying lands ;

(*d*) name and address of every proprietor, whether recorded or unrecorded;

(*e*) the character and extent of the interest of which each proprietor is in possession ;

(*f*) a specification of any lands held by all or any of the proprietors of the parent-estate in common with all or any of the proprietors of other estates, and of the rights of such proprietors respectively in such lands.

[a] See *supra*, p. 393.

Application to be accompanied by copy of rent-roll and statement of rents.

19. Subject to the provisions of section 61, every application shall, if possible, be accompanied by a copy of the rent-roll of the estate, by a statement of the rents collected from such estate on behalf of the applicant during each of the three years immediately preceding such application, and by copies of any measurement-papers of the estate which the applicant may have in his possession.

The said rent-roll, statement and measurement-papers shall be attested by the patwáris of the villages, if any, and every such application, rent-roll and statement shall be presented, subscribed and verified as provided in section 52.

If the applicant is unable to produce a rent-roll or statement as above required, he shall state the reason of such inability, and the name and address of the person who has in his possession the information necessary for the preparation of such rent-roll and statement, and the Collector may, if he shall think fit, require such person to produce such rent-roll and statement.

Collector may reject application.

20. If the application does not fulfil the requirements of the three last preceding sections, the Collector may reject such application or may order it to be amended.

Procedure of Collector on receipt of application.

21. If in the opinion of the Collector the application fulfils the said requirements, and there appears to be no objection to making the partition, the Collector shall publish a notification of the application in the manner prescribed in section 134, and shall also cause copies thereof to be posted up at the Court of the Judge of the district, at the Court of every Munsif and Sub-divisional officer within whose jurisdiction, and at every Police-station within the jurisdiction of which, any lands appertaining to the estate are known to be situated, and shall invite any person claiming any proprietary right in the estate, who may object to the partition, to state his objection either in person, or by duly authorized agent, on a day to be specified in the notification, not being less than thirty or more than sixty days from the date of the publication of the notification on the estate.

Notice to proprietors not joining.

22. Notice of the application shall also be served in the manner prescribed by section 135 on such of the recorded proprietors of the estate as shall not have joined in the application, and on any other proprietor who may have been named in the application.

On valid objection being made within time allowed, application may be refused.

23. If any objection be made to the partition by any person claiming a proprietary right as aforesaid on or before the day specified in the notification published under section 21, or at any subsequent time if it shall seem fit to the Collector to admit such objection, and the Collector, on consideration of such objection, shall be of opinion that there is good and sufficient reason for rejecting the application, he may reject the same, and in that case shall record the grounds of such rejection.

Procedure when objection raises question of title or right.

24. If the objection raises any question of the extent of interest, or of right or title as between any applicant and any other person claiming to be a proprietor of the parent-estate, and if it shall appear to the Collector that such question has not been already determined by a Court of competent jurisdiction, the Collector may hold such inquiry as he may deem necessary into the objection, and, if he be satisfied that the applicant is in possession of the extent of the interest for the separation of which he has applied, may, instead of rejecting the application as provided in the last preceding section—

(*a*) direct that the partition-proceedings shall proceed for the purpose of forming and assigning to the applicant a separate estate in accordance with the extent of interest claimed by him in the parent-estate; or

(*b*) direct that such proceedings be postponed for four months.

When Collector to resume proceedings.

25. At the expiration of the said four months, the Collector shall resume the proceedings, unless the person who has made the objection, or some other person, shall have obtained an order from a civil Court directing that such proceedings be stayed, or shall be able to show that a suit has been instituted before such Court to try some question of such nature that the Collector shall think fit to stay the proceedings until the question shall have been finally decided, or until the proceedings in such Court in respect thereof shall have terminated.

Suit in civil Court when not to affect proceedings under Act.

26. No suit instituted in a civil Court by any person claiming any right or title in the parent-estate, after the lapse of four months from the issue of an order of the Collector under clauses (*a*) and (*b*) of section 24, or after the lapse of four months from the issue of an order of the Collector under section 31 declaring the estate to be under partition, shall avail to stay or affect the progress of any proceedings which shall have been taken under this Act for the partition of an estate; and all rights which may be conferred on any person by the final decree in such suit shall be subject to such proceedings in the manner hereinafter provided.

Decree made while partition-proceedings in progress.

27. Every decree passed in such suit after the parent-estate shall have been declared to be under partition as provided in section 31, but before the date specified in the notice under section 123, shall be made in recognition of the proceedings then in progress under this Act for the partition of such parent-estate, and shall be framed in such manner that the provisions of such decree may be applied to, and may be carried out in reference to, the separate estates which the Collector in his proceeding under section 31 shall have ordered to be formed out of the parent-estate;

and if the effect of any such decree be to declare any person or body of persons entitled to any extent of interest in such parent-estate in excess of the extent of interest which the Collector in the said proceeding has declared to be

held by such person or body of persons, such decree shall specify, separately in respect of every proprietor or body of proprietors of whose interests the Collector has separately specified the extent in the said proceeding, the proportion of such excess which such person or body of persons is entitled to recover from every such proprietor or body of proprietors;

and every person or body of persons so declared entitled to recover any extent of interest from any such proprietor or body of proprietors shall, for the purposes of the partition-proceeedings, be deemed to have the same rights, and to be subject to the same liabilities, as a person who has acquired such extent of interest from such proprietor or body of proprietors by private purchase after the estate was brought under partition under section 31, and on the date on which the decree was passed;

and such person or body of persons may apply, as in this Act provided, for the separation and assignment to him, or them, of the lands representing the extent of interest so acquired;

and such application shall be dealt with as provided in section 32.

Decree made after partition-proceedings completed.

28. Every decree passed after the date specified in the notice under section 123 in a suit which was instituted as mentioned in section 26, shall be made in recognition of the partition-proceedings, and shall be framed in such manner as to give effect to such division of the parent-estate into separate estates as shall have been made by the Collector, and not to disturb such division;

and if the effect of any such decree shall be to declare any person or body of persons to have been entitled to any extent of interest in the parent-estate in excess of the extent of interest which is represented by the separate estate assigned to such person or body of persons by the Collector in the partition-proceedings, such decree shall specify, separately in respect of the proprietor or joint proprietors of every separate estate formed by the partition, the proportion of such excess of interest which such person or body of persons is entitled to recover from such proprietor or joint proprietors; and every person or body of persons so declared entitled to recover any extent of interest from the proprietor or joint proprietors of a separate estate shall be entitled to recover such extent of interest out of the separate estate which has been assigned to such proprietor or joint proprietors, and out of such separate estate only;

and every such decree as aforesaid shall be executed by placing the person or persons so declared entitled to recover in the position of a recorded joint proprietor or recorded joint proprietors of such separate estate, holding the same as a joint undivided estate in common tenancy with the proprietor or joint proprietors to whom such separate estate was assigned by the Collector in the partition-proceedings, the extent of the interest of the joint proprietors respectively in such estate being such as is declared in the aforesaid decree.

Civil Court may order partition.

29. Subject to the provisions of section 11, a civil Court may at any time direct the Collector to assign to any person lands representing a specified interest in any estate, or in any specified village or tract of land in an estate, to be held by such person as a separate estate, or to divide off from any estate any specified villages or lands, and to assign them to any person to be held as a separate estate, provided that an application for such partition and separation shall be presented by such person, as required by sections 17, 18 and 19;

but no civil Court shall in any case specify the amount of revenue for which any separate estate which it may direct to be formed under the provisions of this section shall be liable.

Collector to assess land-revenue in accordance with Act.

30. The Collector shall assess the land-revenue on every such separate estate in accordance with the provisions of this Act, and no civil Court shall direct the Collector to carry out a partition otherwise than in accordance with the provisions of this Act.

Collector may declare estate to be under partition.

31. If no objection be made within the time allowed under section 21 to an application for partition, or when all objections have been disposed of, and if the Collector has no reason to believe that any obstacle exists to his making the partition as applied for, he shall direct that the application be admitted, and record a proceeding declaring the estate to be under partition, for the purpose of forming and assigning to the applicant a separate estate.

In such proceeding the Collector shall declare the extent of interest in the parent-estate which he finds to be held by the applicant or joint applicants;

and, if more than one separate application for separation shall have been made and admitted, the extent of interest which he finds to be held by every separate applicant or body of joint applicants respectively;

and also the extent of interest which remains to any recorded proprietor, or to any number of recorded proprietors who are not applicants;

and shall order that lands proportionate to the interest so declared to be held by each applicant, or body of joint applicants respectively, shall be formed into a separate estate, to be assigned to such applicant or body of joint applicants;

and that lands proportionate to the interest so declared to remain to the recorded proprietor, or the number of recorded proprietors who are not applicants, shall be left forming a separate estate.

Subsequent application for separation of other share.

32. If at any time after the Collector has made an order for partition under the last preceding section any recorded proprietor in the estate, other than the original applicant, shall apply for the separation of his share, the Collector may either order that the proceedings for effecting such separation shall be carried on simultaneously with those for separating the share of the original applicant, or, if he consider that such a course would entail delay in

the completion of the original proceedings, he may order that no action shall be taken on such subsequent application until after the proceedings for the separation of the original applicant's share shall have been completed.

In the latter case all or any of the rent-rolls, measurements and other papers which were used in the separation of the original applicant's share, may be used, as far as they are applicable, in the partition for which subsequent application has been made.

Collector may refer application for partition to Deputy Collector.

33. The Collector may refer any application for partition to a Deputy Collector for the purpose of making any enquiries and doing anything required by this Part;

provided that every order—

(*a*) rejecting an application under section 23;

(*b*) directing, under section 24, that the partition shall proceed, or shall be postponed;

(*c*) directing, under section 31, that an application for partition be admitted, and declaring an estate to be under partition;

(*d*) made under the first clause of the last preceding section;

(*e*) appointing a Deputy Collector under the next succeeding section to carry out the partition,

shall be passed by the Collector and not by any Deputy Collector.

Appointment of Deputy Collector to carry out partition.

34. As soon as the Collector has declared an estate to be under partition as provided in section 31, he may appoint a Deputy Collector to carry out the partition, and all or any of the proceedings necessary thereto.

Partition stayed if parties desire.

35. If, at any time after an order shall have been passed for making a partition, all the recorded proprietors of the estate shall present a petition to the effect that they do not wish the partition to proceed, the Collector may, on the report of the Deputy Collector or otherwise, strike the partition-case off the file, on payment by the proprietors of all costs and expenses incurred in and about such partition; and any such costs and expenses which shall not already have been levied as provided in section 39 or section 40, shall be levied in proportion to the shares of the respective proprietors.

Recovery of costs.

Partition may be stayed and proceedings quashed by Commissioner.

36. If, at any time after an order shall have been passed for making a partition, it shall appear from information which was not before the Collector at the time the partition was ordered, or otherwise, that any sufficient reason exists why the partition should not be proceeded with, the Commissioner may, on the report of the Collector or otherwise, after issuing a notice calling on the persons interested to show cause why the partition should not be struck-off the file, and after considering any objections which may be made, order the partition-case to be struck-off the file;

and in such case any costs and expenses of the partition which shall not already have been levied as provided in section 39 or section 40 shall be levied in proportion to the shares of the respective proprietors.

PART IV.

OF ESTABLISHMENTS FOR EFFECTING PARTITIONS AND OF THE COST THEREOF.

Deputy Collector may appoint officers for making measurement of lands, &c.

37. For the purposes of this Act, the Deputy Collector may, with the approval of the Collector, and subject to any rules made in that behalf by the Board, appoint such establishments as may be required—

for making the measurement and survey of lands;

for ascertaining and recording the rates of rent;

for making any other local enquiries;

for the preparation of the papers, and

for other matters in each case;

and the Collector may appoint such peshkárs or other superior officers as may be required to test the work of the Amíns, and for the performance of similar duties:

provided that the scale of remuneration of such officers, and the time for which they shall be employed, shall be sanctioned by the Commissioner.

Special establishments may be appointed.

38. In any district or division in which partitions may be so numerous or so extensive as to render necessary the appointment of special establishments in the office of the Collector or of the Commissioner, the Collector and the Commissioner may, with the sanction of the Board, appoint such establishments.

Levy of cost of partition from proprietors.

39. As soon as possible after an estate has been declared to be under partition as provided in section 31, the cost of making the partition shall be estimated, and the amount shall be levied from the proprietors in such instalments and at such times during the progress of the partition as may be fixed in accordance with any rules which the Board may make in that behalf.

If the amount first estimated is found insufficient, supplementary estimates may be made from time to time, and the required amount may be levied as above provided.

Apportionment of costs.

40. The cost shall be apportioned on the proprietors of each share in proportion to their shares; but whenever it shall appear to the Commissioner that the partition-proceedings have been unnecessarily delayed, and the cost of the partition enhanced by obstacles vexatiously put in the way of their completion by one or more of the proprietors, or by want of due diligence on the part of one or more of the proprietors in carrying out any requisitions made upon him or them, the Commissioner may direct that such portion of the cost

as he may think proper in excess of the amount proportionate to his or their share shall be levied from such proprietor or proprietors.

Deputy Collector may declare cost of local enquiry.

41. Whenever any local enquiry may be held by the Deputy Collector or any other officer, in consequence of an objection raised by any person to any record of measurements, rent-rolls or other information which has been laid before the Deputy Collector, the Deputy Collector may declare the cost which has been incurred by such enquiry, and may direct that the entire cost so declared shall be paid by the person making the objection, or by any one of the proprietors, or that such cost shall be paid in such proportions as he shall think fit, by the said person and the proprietors or any of them, or that such cost be deemed a part of the general cost of making a partition as prescribed in section 39.

After completion of partition, Collector to declare total cost.

42. Upon the completion of the partition, the Collector shall make an order declaring the total cost thereof.

The account shall then be adjusted, either by returning to the proprietors any sums which they may have paid in excess of the total cost, or by levying from them in the manner provided in section 138, if necessary, any sums remaining due.

Salary of Deputy Collectors when deemed part of cost.

43. Whenever it shall appear to the Lieutenant-Governor that in any district the work required to be done by Deputy Collectors in connection with partitions under this Act is so great that such work would, if concentrated in the hands of one or more Deputy Collectors, fully occupy the time of such one or more Deputy Collectors, the Lieutenant-Governor may make an order directing that the salary of such one or more Deputy Collectors, as the case may be, shall be recovered from the proprietors of estates under partition in such district as part of the cost of such partitions, and thereupon such charge as the Collector may think fit to make in respect of such salary shall, in addition to the items mentioned in the last preceding section, be deemed to be a portion of the costs of every partition.

For the purposes of this section the salary of every Deputy Collector shall be deemed to be the amount of salary which is drawn by a Deputy Collector of the lowest grade.

Costs leviable from proprietors.

44. For the purposes of sections 39, 40 and 42, the costs of any partition shall be deemed to be

(*a*) the cost of any establishments entertained for the partition under section 37, or such amount as the Collector may think proper in respect of the services of any such establishments which are entertained for the purposes of making partitions in the district;

(*b*) all contingent expenses incurred in and about the partition, and

(*c*) such portion of the cost of any establishment entertained under section 38 as the Collector may order.

Lieutenant-Governor may direct "Estates' Partition-Fund" to be formed.

45. Notwithstanding anything contained in the eight last preceding sections, the Lieutenant-Governor may direct that in any district a fund to be called the "Estates' Partition-Fund" shall be formed, into which all sums levied from the proprietors of estates in respect of partitions of their estates shall be paid.

Whenever such a fund shall have been established in any district, all expenses of making partitions of estates in such district shall, except as hereinafter otherwise provided, be defrayed from such fund.

Procedure when Estates' Partition-Fund formed in district.

46. Whenever the Lieutenant-Governor shall have ordered an "Estates' Partition-Fund" to be formed in any district, the charges leviable from the proprietors of any estate under partition may be estimated and levied according to the estimate in each case as provided in sections 39 and 40, subject to final adjustment, as provided in section 42, or they may be levied according to a general scale of fees to be fixed by the Board.

Scale of fees.

47. Such scale of fees shall be fixed as nearly as may be, so that the receipts and expenditure of the said fund shall balance one another, and shall be revised from time to time by the Board for that purpose.

Such fees shall be levied from the proprietors in such instalments and at such times during the progress of the partition as may be fixed in accordance with any rules which the Board may make in that behalf, and the provisions of section 40 shall be applicable to such fees.

Abstract of Estates' Partition-Fund to be published.

48. An abstract of the Estates' Partition-Fund of each district made up to the end of each year shall be published in the *Calcutta Gazette*, and by being posted up at the office of the Collector of the district.

Costs chargeable to Estates' Partition-Fund.

49. For the purposes of sections 45, 46 and 47, the expenses of making partitions in any district shall be deemed to be

(*a*) the cost of all establishments entertained in the district under section 37;

(*b*) all contingent expenses incurred in all partitions in the district;

(*c*) the cost of any special establishment appointed in the office of the Collector under section 38;

(*d*) such portion as the Commissioner may direct of the cost of any special establishment appointed in his office under section 38;

(*e*) the salary of any one or more Deputy Collectors which the Lieutenant-Governor may have ordered under section 43 to be recovered from the proprietors of estates under partition.

When civil Court may order parties to pay expenses of dividing estate.

50. Whenever any civil Court shall make a decree awarding or declaring any proprietary right in an estate, and shall require the Collector to make a partition of the estate, such Court may at the same time direct

that the party or parties who may have withheld the right so decreed shall

defray the whole of the expense which may be incurred in and about the partition, or the whole of the fees payable in respect of the partition under section 46,

or that the said expenses or fees shall be defrayed by all or any of the parties to the suit in which the decree was made in such proportions as the Court may, from a consideration of the particular circumstances of the case, deem equitable.

Copies of all orders which the Court may pass under this section shall be transmitted to the Collector for his guidance, together with the precept which the Court may issue to him requiring him to divide the estate; and the Collector shall levy the said expenses and fees from the parties in the proportion ordered by such Court in the same manner and by the same means as if the levy of such expenses and fees had been ordered by the Collector.

PART V.

OF THE PARTITION-PROCEEDINGS UP TO THE ADOPTION OF A RENT-ROLL AND MEASUREMENT-PAPERS.

On estate being declared under partition, Deputy Collector to cause notification to be published.

51. As soon as the Collector shall have made an order under section 31 declaring an estate to be under partition, the Deputy Collector shall cause a notification to be published in the manner prescribed by section 134, and shall also cause copies thereof to be posted up at the Court of the Judge of the district in which any lands appertaining to the parent-estate are known to be situated, and at the Court of every Munsif and of every sub-divisional officer within the jurisdiction of whom, and at every Police-station within the jurisdiction of which, any such lands are known to be situated, intimating his intention to proceed with the partition, and requiring all the proprietors of the estate to produce before a certain date, being not less than forty days from the date of such notification, either jointly or separately, copies of their rent-rolls and statements of the rents collected during each of the three years next preceding, and also copies of any measurement-papers of the estate which may be in their possession.

A notice to the same effect shall also be served as provided in section 135, on each proprietor of the parent-estate.

The Deputy Collector may, on sufficient grounds for so doing being shown to his satisfaction, from time to time extend the period for producing any such return.

Rent-roll filed by proprietor to be sub-

52. Every rent-roll, statement of rents collected and measurement-paper furnished to the Collector under this Act shall be presented by the person who

scribed and verified.

is required to produce the same or by a duly authorized agent of such person who has a personal knowledge of the facts stated therein, and shall be subscribed and verified at the foot by such person or such agent in the manner following, or to the like effect:—

"I, *A.B.*, do declare that this rent-roll (statement *or* measurement-paper) is correct to the best of my knowledge and belief."

If the rent-roll, statement or measurement-paper shall contain any entry which the person making the verification shall know or believe to be false, or shall not believe to be true, such person shall be subject to punishment according to the law for the time being in force for the punishment of giving or fabricating false evidence.

Procedure if person required cannot produce rent-roll or statement.

53. If any proprietor who is required to produce any rent-roll or statement by notice as aforesaid is unable to produce such rent-roll or statement, he shall state to the Deputy Collector the cause thereof and the name and address of the person who has in his possession the information necessary for the preparation of such rent-roll and statement, and the Deputy Collector may, if he shall think fit, require such person to produce such rent-roll and statement.

Deputy Collector may order measurement and test rent-roll.

54. The Deputy Collector may, if necessary, make, or may cause to be made, a measurement of all or any of the lands comprised in the estate, and may prepare or cause to be prepared a rent-roll, and may test or cause to be tested on the spot any rent-roll which has been produced as aforesaid, and may make or cause to be made any local enquiry which he may consider necessary.

Deputy Collector to summon proprietors by proclamation to attend proceedings.

55. Before proceeding or deputing the Amín to the spot, the Deputy Collector shall publish a notification in the manner prescribed by section 134, requiring the several proprietors of the estate, their managers and any other persons employed in the management of the land, or otherwise interested therein, to attend in person or by agent upon him, or upon the Amín who is deputed to make the measurement or enquiry, for the purpose of pointing out boundaries and of affording such assistance and information as may be required for the purposes of this Act.

Deputy Collector and Amín may require attendance of proprietor or other person.

56. The Deputy Collector, and any Amín or other person who is specially authorized in that behalf by the Collector, may, by a notice served as provided in section 135, require any proprietor or other person whose attendance may be required to attend before the Deputy Collector or Amín who is making such measurement or enquiry within a specified time at any place for any of the purposes aforesaid.

Deputy Collector to test Amín's work.

57. If any objection be made to a measurement, map or rent-roll prepared by the Amín, or if for any other reason it seems desirable, the Deputy Collector shall, as soon as possible after completion of the Amín's work, himself test,

or shall cause to be tested on the spot, such measurement, map and rent-roll, and may accept, amend or reject the same, or any of them.

If the Deputy Collector shall deem it necessary, he may cause the work or any portion thereof to be done again.

Examination of parties and their papers.

58. The Deputy Collector may examine any person on solemn affirmation in regard to the papers produced before him, whether by the proprietors, by the Amín, or otherwise, and shall allow the parties concerned to put any necessary questions to such person.

The Deputy Collector shall also allow any proprietor or other person interested to examine the papers so produced, and to take a copy of the same, and after such examination shall hear any objections which any of the persons interested may make in respect of such papers, and shall decide whether any, and (if any) which, of the papers as they stand, or with such modifications as he may think necessary, shall be accepted as correct for the purposes of the partition.

Power of Deputy Collector if proprietor fails to file rent-roll.

59. If any proprietor who has been required to produce a rent-roll or statement under section 51 fails to produce the same after the imposition on him of a fine under section 137 for thirty days, or fails to state to the Deputy Collector the name and address of any person under section 53, the Deputy Collector may declare that the said proprietor shall, for the purposes of the partition, be bound by such rent-roll as the Deputy Collector may adopt as the basis of the partition as hereinafter provided, and after such declaration any officer exercising authority under this Act may refuse to entertain any objection which such proprietor may make to such rent-roll.

Power of Deputy Collector, if person fails to produce rent-roll.

60. If any person who has been required to produce a rent-roll or statement under section 53 shall fail to produce the same after the imposition on him of a fine under section 137 for thirty days, the Deputy Collector may declare that the proprietor who may have stated the name of such person under section 53 shall, for the purposes of the partition, be bound by the rent-roll which the Deputy Collector may adopt for the basis of the partition as hereinafter provided, and after such declaration any officer exercising authority under this Act may refuse to entertain any objection which such proprietor may make to such rent-roll.

Collector may dispense with rent-roll, maps and other papers.

61. Notwithstanding anything contained in this Act, if it shall appear to the Deputy Collector that any measurements, maps, rent-rolls or other papers relating to the estate which have been prepared otherwise than for the purposes of the partition, or otherwise than for the purposes of this Act, afford information sufficiently trustworthy to enable him to effect the partition, the Deputy Collector may adopt such information and such papers either wholly or in part for the purposes of the partition, and may dispense with any rent-

rolls, maps or other papers for which he is authorized to call, or which an applicant is required to produce, under this Act.

Proprietor failing to attend not entitled to object subsequently.

62. No proprietor or other person who shall have failed to attend in person or by agent during the measurement as required by the notification published under section 55, shall be entitled at any subsequent time to make any objection to such measurement;

but the Collector may admit any objection made by such proprietor or person if he think fit, provided that any expense entailed by a local enquiry made in consequence of such subsequent objection shall be paid entirely by such proprietor or person.

Notification of date for deciding mode of partition.

63. When the Deputy Collector is finally satisfied that the papers before him, whether rent-rolls, measurement-papers, maps or other papers, are sufficient and sufficiently correct to be accepted or adopted for the purposes of the partition, he shall make an order to that effect, and shall fix a day on which to determine the general arrangement of the partition, and shall publish a notification in the manner prescribed by section 134, calling on all the proprietors to be present on the day so fixed, such day being not less than thirty or more than sixty days after the publication of the notification in his office, and shall serve a notice to the same effect on each proprietor or his agent.

PART VI.

Of Partition by amicable Arrangement or by Arbitration.

Deputy Collector may allow parties to make private partition.

64. On the date fixed under the last preceding section, if a petition to that effect signed by all the recorded proprietors shall have been presented, the Deputy Collector may allow such proprietors to make a private partition of the estate amongst themselves on the basis of the papers which have been accepted or adopted for the purposes of the partition by the Deputy Collector, or may refer the partition to be made by an arbitrator or arbitrators on such basis.

If the proprietors who have elected to make such private partition shall fail to make the same within such time as may be fixed by the Deputy Collector, the Deputy Collector may refer the partition to be made by an arbitrator or arbitrators, or may make the partition himself.

Procedure on reference to arbitration.

65. Whenever any partition shall have been referred to arbitration, the proceedings shall be conducted in accordance with the provisions of sections 506 to 522 (both inclusive) of the Code of Civil Procedure as far as those provisions are applicable, and except as herein otherwise expressly provided.

Arbitrators to deliver partition-paper.

66. The arbitrators shall deliver, within a time to be fixed by the Deputy Collector, which time may be further extended by him, a full and complete paper of partition, in such form as may be prescribed by the Board for partitions made by the Collector or Deputy Collector.

Remuneration of arbitrators.

67. The arbitrators, on delivering the paper of partition as aforesaid, shall be entitled to reasonable fees for their services, the amount of which shall be fixed, with the approval of the Commissioner, by the officer making the reference to arbitration, and shall be considered to form part of the cost of making the partition.

Partition under this Part subject to approval of Collector, and superior Revenue-authorities.

68. Every partition made under the provisions of this Part by the parties, or by arbitrators appointed by them, shall be subject to the approval of the Deputy Collector and to the confirmation of the Collector and the orders of the superior Revenue-authorities;

provided that neither the Deputy Collector nor any other authority shall disallow any partition so made on any other ground than that of fraud, or that, in the opinion of the Deputy Collector or such other authority, the partition cannot be confirmed without endangering the safety of the land-revenue.

Land-revenue to be assessed by Collector.

69. Whenever a partition has been made under the provisions of this Part, the land-revenue shall be assessed by the Collector on each separate estate into which the parent-estate is divided by such partition in the manner prescribed by section 6.

When Deputy Collector may withdraw case from arbitration.

70. If the paper of partition be not delivered within the time fixed by the Deputy Collector, or within any further period to which the time may have been extended, the Deputy Collector may withdraw the case from arbitration and may make the partition himself.

PART VII.

Of the Procedure from the Determination of the general Arrangement of the Partition by the Deputy Collector to the Approval of the Partition by the Collector.

Procedure when no petition presented under section 64.

71. If no petition shall have been presented under section 64, the Deputy Collector shall, on the date fixed under section 65, or on any other date to which the hearing may have been postponed by a notice posted at the office of the Deputy Collector, consult orally each proprietor present, and endeavour, as far as possible, with the concurrence of the proprietors present, to settle a general arrangement of the partition in accordance with the requirements of this Act.

For this purpose he shall endeavour to obtain from each proprietor an acknowledgment of his acceptance of the rent-roll, map and any other papers

which have been adopted by the Deputy Collector for the purposes of the partition, and shall briefly record the objections of any proprietor who still objects to accept such rent-roll, map or other papers.

Deputy Collector may postpone general arrangement.

72. If, in consequence of any objections made before the Deputy Collector has settled the general arrangement of the partition as provided in the last preceding section, the Deputy Collector considers it necessary to make further inquiry, he may, by notice to the recorded proprietors, postpone the settlement of the general arrangement of the partition to a date being not less than fifteen days from the service of the notice on any proprietor.

Deputy Collector may award to proprietor compensation for attendance.

73. If the objections on account of which the said settlement is postponed are such that the person making the same might have made them on an earlier day, the Deputy Collector may award to each proprietor, who shall have attended in person or by agent in accordance with the notice, such sum, not exceeding sixteen rupees, as he shall think fit by way of compensation for such attendance.

The sum so awarded shall be paid by the person making the objections as aforesaid, and may be recovered from him in the manner provided by section 138.

If no postponement made, Deputy Collector to determine general arrangement.

74. If the objections have already been enquired into and disposed of, or are such as not to render necessary any further inquiry and postponement, or when any objections which may require further enquiry have been disposed of, the Deputy Collector shall record an order to that effect, and, after hearing what each proprietor present may urge, shall hold a proceeding determining the general arrangement of the partition and the mode in which the parent-estate shall be divided, and, in a general way, the position of the lands which shall be assigned to each of the separate estates.

In determining the general arrangement of the partition, the Deputy Collector shall be guided by the rules which are laid down in Part VIII, and shall direct the partition to be made in the manner which, in his opinion, is on the whole most in accordance with such rules, and most equitable and most convenient to all parties concerned.

General arrangement of partition to be submitted for sanction of Collector.

75. The general arrangement of the partition, as determined under the last preceding section, shall be submitted for the sanction of the Collector, who shall by notice fix a date for the consideration of the same, not being less than fifteen days after the publication of the said notice in his office, and after hearing and disposing of any objection which may be preferred, shall pass such orders as he may think proper, setting-aside, amending or approving the general arrangement made by the Deputy Collector.

Deputy Collector to fix boundaries.

76. When the general arrangement has been approved by the Collector, the Deputy Collector shall proceed to fix the exact boundaries of each separate

estate, after considering the wishes which the parties may express in respect thereof.

77. When the Deputy Collector shall have so determined the boundaries, he shall cause to be drawn up a paper of partition specifying in detail the villages and lands which he has included in each of the separate estates, the rental thereof, with any other assets of each separate estate, the name or names of the recorded proprietor or proprietors of each separate estate, any stipulations which may have been made regarding places of worship, tanks or other matters as mentioned in Part VIII, and the amount of land-revenue to be assessed on each separate estate; Deputy Collector to draw up paper of partition and map.

he shall also prepare a map showing the lands which fall within each separate estate and the boundaries thereof, unless the preparation of such map shall be dispensed with by special permission of the Collector.

78. The Deputy Collector shall submit the partition-paper and map as aforesaid and all other papers of the partition to the Collector with a full report of the proceedings taken, the reasons which influenced the Deputy Collector in selecting the lands included in each separate estate, the nature of the accounts upon which the apportionment of the land-revenue assessed thereon has been based, and all other particulars material to the case. Deputy Collector to submit papers to Collector.

79. The Deputy Collector shall at the same time cause to be prepared a separate extract of the portion of the partition-paper which relates to each separate estate, Deputy Collector to prepare extracts of partition-papers for each proprietor.

and shall cause to be tendered to any recorded proprietor of a separate estate, or any authorized agent of such proprietor, who may be in attendance at the Deputy Collector's office, the extract which relates to such separate estate;

and the Deputy Collector shall publish a notice at his office calling upon every proprietor to whom or to whose agent an extract from the partition-paper has not been tendered as above-mentioned, to take out of the Deputy Collector's office the extract of the portion of the partition-paper relating to his separate estate.

If the circumstances of the partition so require, an extract of the map prepared by the Deputy Collector, or a copy of such map, shall be annexed to every separate extract from the partition-paper herein mentioned.

80. On receipt of the papers and report mentioned in section 78, the Collector shall cause a notification to be published in the manner prescribed by section 134 fixing a date, not being less than six weeks from the date of the publication of such notification on the parent-estate, on which he will proceed to take up the case, and to consider any representations and objections which may be preferred in respect of the partition made by the Deputy Collector, On receipt of papers and report, Collector to publish notification.

and calling on all parties concerned who may wish to do so, to inspect the papers at his office before such date, and to take copies of any such papers as they may require.

The Collector shall also cause a notice to the same effect to be served on each of the recorded proprietors.

Procedure of Collector thereupon.

81. On the date so fixed, or on any other date to which the hearing may have been postponed, the Collector shall take into consideration the papers as laid before him, and after calling for any further information which he may deem necessary, and disposing of any objections which shall be made to the proposed partition and allotment of land-revenue, may approve the partition as made by the Deputy Collector with such amendments as he may think proper, or return it for amendment to the Deputy Collector who made it, or to another Deputy Collector, or make a fresh partition himself.

The Collector may return the said papers for amendment or enquiry as often as he may think fit.

Proprietor when not entitled to make subsequent objection.

82. No proprietor who shall have failed to appear before the Deputy Collector in person or by agent on any date fixed for the arrangement of the partition under section 63 or section 72, and no proprietor who shall have failed so to appear before the Collector on any date fixed under either of the two last preceding sections, shall be entitled, at any subsequent time, to make any objection to the orders which may be passed on such dates respectively.

Collector may cause fresh partition-paper and map to be prepared.

83. When the Collector approves the partition made by the Deputy Collector with amendments, he may cause a fresh partition-paper and map to be prepared, or may cause the amendments made by him to be noted on the paper and map submitted by the Deputy Collector.

When the Collector makes a fresh partition himself, he shall cause a fresh partition-paper and map to be prepared.

Procedure when Collector approves of partition without amendment.

84. Whenever the Collector shall have approved a partition (whether with or without amendments), he shall cause a notice to be served on each of the recorded proprietors that the papers will be submitted at once for confirmation of the partition by the Commissioner, and that any appeals or objections must be presented to the Commissioner, or to the Collector for transmission to the Commissioner, within thirty days of the date of the service of the said notice, or, if the Collector has approved the partition with amendments, and the notice requires the proprietor to produce the extract of any partition in order that amendments may be noted thereon, or to take out a fresh extract from the partition-paper, as provided in the next succeeding section, then within six weeks of such date.

Procedure when Collector approves

85. Whenever the Collector shall have approved a partition with amendments, and shall, under section 83, have caused such amendments to be noted

on the partition-paper and map submitted by the Deputy Collector, the notice to be served on each of the recorded proprietors under the last preceding section shall, in the case of every such proprietor whose separate estate is affected by such amendment, in addition to the particulars mentioned in the said section, require such proprietor to produce before the Collector, within fifteen days of the service of such notice, the extract from the paper of partition which has been prepared, and any map relating to his separate estate which may have been prepared, under section 79, in order that the amendments made by the Collector in the partition may be noted thereon; and such amendments shall be noted thereon by the Collector accordingly, and such extract and map shall be returned to the proprietor who produced them. partition-paper with amendments.

Whenever the Collector shall have caused, under section 83, a new partition-paper and map to be prepared, he shall order separate extracts from the portions of the partition-paper which relate to each separate estate, and maps, if necessary, to be prepared as required by section 79, and in such case the notice served under the last preceding section shall, in addition to the particulars mentioned in that section, declare the extracts and maps which were furnished or offered to proprietors under section 79 to be cancelled, and shall require the recorded proprietors to take out of the Collector's office such extracts and maps relating to their respective separate estates.

86. As soon as practicable after the issue of the notice under section 84, the Collector shall forward to the Commissioner all papers relating to the partition as approved or as made by the Collector. Papers to be forwarded to Commissioner.

PART VIII.

Of the general Principles on which Partitions shall be made.

Rules applicable to the Partition of Lands which are held by the Proprietors in common Tenancy.

87. Each separate estate shall be made as compact as is compatible with the primary object of making an equitable partition among the proprietors, and with the other provisions of this Part, but no partition made or approved by a Collector shall be set-aside on the ground only that the separate estates are not compact. Estates formed in course of partition to be compact.

88. In selecting the villages or lands to be assigned to each separate estate formed out of a parent-estate which has been held in common tenancy, the Collector shall take into consideration Circumstances to be considered in making partitions.

the advantages or disadvantages arising from situation;

the vicinity of roads, railways, navigable rivers or canals;
the nature and quality of the soil and produce;
the quantity of cultivable and uncultivable waste-land;
the facilities for irrigation;
the state of the embankments and water-courses;
liability to accretion and diluvion,
and any other circumstances affecting the value of the lands.

Rule when dwelling-house belonging to one proprietor is situated on ground allotted to another.

89. If a dwelling-house belonging to one proprietor is situated on any land which it may be necessary to include in the separate estate of another proprietor, the owner of such house may retain occupation thereof with the offices, buildings and grounds immediately attached thereto, upon agreeing to pay rent for the land occupied by such dwelling-house, offices, buildings and grounds to the proprietor of the separate estate in which such land is included.

The limits of the land so occupied and the rent to be paid for it in perpetuity shall be fixed by the Deputy Collector, and shall be stated in the paper of partition.

In every such case a defined pathway shall, as far as possible, be secured to the owner of the house, leading from his house to some portion of the separate estate allotted to him.

Rule in last preceding section applied to gardens, orchards, &c.

90. Whenever the Deputy Collector shall think fit, he may apply the rule contained in the last preceding section to gardens, to orchards of trees, to land planted with bamboos, and to any other lands which in his opinion are of special value to the proprietor in whose occupation they are found to be, in consequence of improvements made by such proprietor or of the particular use to which such lands are put.

Calculation of rental.

91. The rent fixed in perpetuity on any land by the Deputy Collector under either of the two last preceding sections shall be considered to be the rental of such land for the purposes of the partition.

Rent may be redeemed.

92. Whenever the dwelling-house of one proprietor, with the offices, buildings and grounds immediately attached thereto, shall have been included in the separate estate of another proprietor, and the annual rent to be paid in perpetuity in respect of the land occupied thereby shall have been fixed by the Deputy Collector and stated in the paper of partition, the proprietor whose dwelling-house, offices, buildings and grounds have been included as aforesaid may apply to the Deputy Collector for permission to redeem the annual rent so fixed, and the Deputy Collector shall give such permission, unless he shall be of opinion that such redemption would endanger the safety of the land-revenue for the payment of which the separate estate in which such dwelling-house, offices, buildings and grounds have been included will be liable.

Deputy Collector to certify amount payable in redemption of rent.

93. If the Deputy Collector shall see no such reason to refuse his permission to the redemption being made, he shall certify the amount payable by such proprietor in redemption of such annual rent; and such amount shall be calculated and fixed by the Deputy Collector at ten per centum above the sum which would be required to purchase, at the market-prices then prevailing, so much stock of the Government-loan which was last issued as would yield an annual amount of interest equal to the annual land-rent fixed by the Deputy Collector under section 89.

But not after possession of separate estates has been given.

94. The proprietor desiring to redeem the rent as aforesaid, may pay to the Deputy Collector the amount so certified at any time before possession is given to the several proprietors of the separate estates allotted to each, as provided in section 123, but not after such possession has been given.

Notice of payment to be given, and land to be held rent-free.

95. On receipt of such payment, the Deputy Collector shall give notice to the proprietor in whose separate estate such land is situated that such payment has been made, and that the sum will be paid to him or to his authorized agent on application; and that from the date on which possession as aforesaid may be given, the proprietor who has redeemed the rent of such land will be entitled to hold such land as a rent-free tenure secured against the proprietor of the estate and against any auction-purchaser at a sale for arrears of revenue, including the Government; and from such date the lands shall be so held as a rent-free tenure.

Collector to register rent-free tenure.

96. The Deputy Collector shall at the same time also give notice to the Collector of the district of the creation of such tenure; and the Collector of the district shall thereupon cause such tenure to be specially registered in the manner provided by section 42 of Act XI of 1859,[a] or by any similar law for the time being in force.

Lots may be drawn for equal shares.

97. When two or more of the separate estates shall consist of the same proportions of the parent-estate, the Deputy Collector may, if he thinks proper, direct the parties entitled thereto respectively to draw lots in his presence for the equal separate estates which have been formed by assignment of lands, unless the recorded proprietors of the equal shares shall agree among themselves as to the allotment of the equal separate estates and shall present a petition to that effect; or unless for any other reason the Deputy Collector shall, with the sanction of the Collector, think proper to assign the equal separate estates to the proprietors of the equal shares without causing lots to be drawn.

Order and method of drawing lots when aggregate of two or

98. When the aggregate of two or more shares equals one other share, or equals the aggregate of two or more other shares, the Deputy Collector, with the sanction of the Collector, may cause such aggregate-shares to be treated

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[a] See *supra*, p. 393.

more shares equals one other share.

as one share for the purpose of determining by lots as aforesaid which portion of the parent-estate shall be assigned to each proprietor as his separate estate ;

and may decide which shares shall be formed into one aggregate-share for the purpose of causing such lots to be drawn ;

and may cause lots to be drawn in like manner as often as he shall think proper for such purpose.

And after lots shall have been drawn once (or more than once if necessary) as aforesaid, the Deputy Collector shall proceed to divide the portion of the parent-estate which has fallen by lot to each aggregate-share, among the proprietors of the different shares which were formed into such aggregate-share for the purpose of drawing lots, and shall assign to every such proprietor his separate estate within such portion in such position as the Deputy Collector may think proper :

Provided that lots shall in no case be drawn until after full opportunity shall have been given to the proprietors to advance their objections in respect of the papers accepted as the basis of the partition and in respect of the assets of the different lands as stated in such papers, and until any such objections which may have been made shall have been disposed of.

Illustrations.

I.—The partition of a parent-estate is being made into the following shares :—

8 annas.
4 annas.
3 annas.
1 anna.

For the purposes of drawing lots, the 4 annas, 3 annas and 1 anna share may be taken together, and considered to be an aggregate 8 annas share.

The Deputy Collector will divide the parent-estate into two halves of equal value, and will then cause lots to be drawn, in order to determine which of the two halves shall be assigned to the proprietor of the integral 8 annas share, and which shall be divided among the proprietors of the 4 annas, 3 annas and 1 anna shares.

Subsequently, if necessary, the Deputy Collector may again cause lots to be drawn by the proprietor of the 4 annas share on the one hand, and the proprietors of the aggregate-share made up by taking together the 3 annas share and the 1 anna share.

II.—The partition is being made of a parent-estate into the following shares :—

6 annas.
4 annas.
3 annas.
2 annas.
1 anna.

Two tracts in the estate may first be marked-off, the value of each being equivalent to a 6 annas share, and then, for the purpose of drawing lots in respect of the assignment of these two tracts, the 4 annas share and the 2 annas share may be taken together as an aggregate

6 annas share, and lots may be drawn between the proprietor of the aggregate 6 annas share so formed on the one hand, and the proprietor of the integral 6 annas share on the other.

One of the two 6 annas tracts having thus been finally assigned to the proprietor of the integral 6 annas share, the Deputy Collector will proceed to assign the rest of the estate among the remaining sharers, and he may again, for the purpose of causing lots to be drawn, mark-off two tracts, the value of each of which shall be equivalent to 5 annas of the parent-estate, and may cause lots to be drawn for these two tracts between the proprietors of the 4 annas share and the 1 anna share taken together as an aggregate 5 annas share on the one hand, and the proprietors of the 3 annas share and the 2 annas share taken together as another 5 annas share on the other.

Finally, their separate estates will be assigned to the proprietor of the 4 annas share and of the 1 anna share respectively, within the tract which fell to them jointly by lot; and their separate estates will be assigned to the proprietors of the 3 annas share and of the 2 annas share respectively, within the tract which fell to them jointly by lot.

Deputy Collector may require proprietors to attend or appoint agent for drawing lots.

99. The Deputy Collector may, by a notice served as provided in section 135, require any proprietor in respect of whose share lots are to be drawn as provided in either of the two last preceding sections, to attend at the office of the Deputy Collector in person or by authorized agent at a time to be fixed by the Deputy Collector for the purpose of drawing lots;

and may similarly require the proprietors of any shares which he may have ordered to be formed into an aggregate-share for the purpose of drawing lots, jointly to appoint an agent to draw lots on their joint behalf; and if at the time fixed for drawing such lots such proprietors have failed to agree to any such joint appointment, or shall fail to cause the attendance of an agent authorized to act jointly for all such proprietors, all such proprietors shall be deemed to have failed to comply with the Deputy Collector's requisition.

In default, Deputy Collector may appoint person to draw lots.

100. Whenever any proprietor or proprietors shall have failed to comply with a requisition of the Deputy Collector under the last preceding section, the Deputy Collector may appoint a person to draw lots on behalf of such proprietor or proprietors.

Rules applicable to the Formation into separate Estates of Lands which are held by Proprietors in Severalty.

Joint petition may be presented for partition according to private division.

101. Whenever in any parent-estate a division of the lands thereof has been made by private arrangement of the proprietors of such estate, and in accordance with such arrangement each proprietor is in possession of separate lands held in severalty as representing his interest in such parent-estate, the joint application presented to the Collector by all the recorded proprietors of such estate as required by section 12 may be to the effect that a partition of such estate be made by assigning to each proprietor, or to two or more proprietors jointly, as his or their separate estate, the lands of which they are in separate possession in accordance with such arrangement, and also that each

separate estate so formed be made liable for such portion of the entire land-revenue of the parent-estate as was paid by the proprietor or proprietors thereof under the private arrangement aforesaid.

Partition according to private division to be referred to Collector.

102. The Deputy Collector who is appointed to carry out the partition in accordance with such application shall satisfy himself that the assets of each separate estate which it is proposed to form are sufficient to secure the payment of the annual amount of land-revenue for which it is proposed to make such separate estate liable; and if the Deputy Collector be satisfied that in this respect, and with reference to all the circumstances of the case, the partition of the lands and the assessment of the revenue thereon may be made in the manner proposed without endangering the safety of the revenue, the Deputy Collector shall submit the case with his opinion thereon, and the reasons on which such opinion is founded, to the Collector, who may admit or reject the said application.

Effect of Collector's approval.

103. If the Collector admits the said application, such admission shall be deemed to be the Collector's approval of the general arrangement of the partition as provided in section 75, and the Deputy Collector shall proceed to complete the partition accordingly.

Such partition may be refused.

104. If the Deputy Collector who is appointed to carry out the partition in accordance with a joint application under section 101 is not satisfied that the partition of the lands and the assessment of the revenue payable thereon can be made in the manner proposed without endangering the safety of the public revenue, or if the Collector rejects the application for such partition, the Deputy Collector shall refuse to make the same.

Joint petition may be presented for partition of land in accordance with private division with proportional redistribution of public revenue.

105. Whenever the proprietors of an estate are, in accordance with a private arrangement as aforesaid, respectively in possession of separate lands held in severalty as representing their respective interests in the estate, the joint application presented to the Collector by all the recorded proprietors of the estate, as required by section 12, may be to the effect that a partition of such estate be made by assigning to each proprietor, or to two or more proprietors jointly, as his or their separate estate, the lands of which they are in possession in accordance with such arrangement, and that the land-revenue for which the parent-estate is liable may be apportioned among the separate estates so formed in accordance with the provisions of section 6.

A joint application under this section may be made notwithstanding that a joint application under section 101 has been refused in respect of the same estate.

Lands of which each proprietor is in possession to be allotted to him.

106. Whenever the Deputy Collector who is appointed to carry out a partition shall find that in accordance with a private arrangement made by the proprietors of an estate, the proprietors respectively, or any of the proprietors, are in possession of separate lands held in severalty as representing portions only

of their respective interests in the parent-estate, while other lands of the parent-estate are held in common tenancy between such proprietors, a joint application as mentioned in section 12 shall not be necessary to authorize the Collector to make a partition of the estate, but the Deputy Collector shall allot to the separate estate of each proprietor the lands of which such proprietor is found to be in possession in severalty in accordance with such private arrangement.

Lands held in the occupation of the several proprietors of an estate as sír, khámár or níj-jot, or under any other similar denomination, shall not be deemed to be lands held in severalty as representing portions of their respective interests in the parent-estate within the meaning of this section, which applies only to cases in which there has been a *boná fide* division, by private arrangement among the proprietors, of lands held by tenants.

107. Notwithstanding anything contained in the last preceding section, the Collector may cause any transfer of lands agreed to by the parties to be made from the possession of one proprietor to that of another. Collector may cause transfer of lands agreed to by parties.

Rules applicable both to Lands held in common Tenancy and to Lands held in Severalty.

108. Places of worship, burning-grounds and burial-grounds which have been held in common previous to the partition of an estate, and lands of which the proceeds have been assigned by the proprietors jointly for religious, charitable or public purposes, shall continue to be held in common, unless the proprietors shall otherwise agree amongst themselves, in which case they shall state in writing the agreement into which they have entered, and the Deputy Collector shall enter a note of the agreement in the paper of partition. Rule as to places of worship.

109. Tanks, wells, water-courses and embankments shall be considered as attached to the land for the benefit of which they were originally made. Rule as to tanks, wells, water-courses and embankments.

In cases in which, from the extent, situation or construction of such works, it shall be found necessary that they should remain the joint property of the proprietors of two or more of the separate estates, the paper of partition shall specify, as far as the circumstances may admit, the extent to which the proprietors of each of such estates may make use of the same, and the proportion of the charges for repairs to be borne by them respectively.

110. Whenever the Deputy Collector shall find in the parent-estate lands which are actually held rent-free (whether the proprietors of the estate do or do not claim a right to receive rent from such lands), the Deputy Collector shall make no division or assignment of such lands among the separate estates, but shall specify in the partition-papers and proceedings that such lands are left appertaining jointly to all the separate estates which are formed out of the parent-estate, in the proportion which each separate estate bears to the parent-estate: Lands held rent-free not to be divided.

Provided that such lands or any of them may be allotted among the different separate estates with the consent of all the recorded proprietors of the parent-estate, but not otherwise.

Rule as to permanent intermediate tenures.

111. Whenever the Deputy Collector shall find in the parent-estate any lands which are held at a fixed rent on a patní or other permanent intermediate tenure falling within Exception 2 or Exception 3 of section 7, the Deputy Collector may either

(1) assign the lands which are held on such tenure and the assets thereof entirely to one or more of the separate estates, the rental being calculated as provided in Exception 2 or in Exception 3 (as the case may be) of section 7; or

(2) leave such lands unassigned to any separate estate, and specify in the partition-paper and proceedings that the lands are left appertaining jointly to all the separate estates which are formed out of the parent-estate in the proportion which each separate estate bears to the parent-estate.

In the event of such lands being so left undivided, the Deputy Collector shall assign to each separate estate such share of the rental of the tenure as shall bear the same proportion to the entire rental of the tenure, as the separate estate bears to the parent-estate.

In dealing with a tenure under this section, the Deputy Collector shall take into consideration the extent of the lands comprised in the tenure, and all other circumstances of the case.

Lands held in common between proprietors of two or more estates how dealt with.

112. Whenever any lands are held in common between the proprietors of two or more estates, one of which is under partition in accordance with the provisions of this Act, the Deputy Collector shall first allot to the estate under partition a portion of such common lands of which the assets are in proportion to the interest which the proprietors of such estate hold in the said common lands; and all the provisions of this Act in respect of the allotment between the shareholders in one estate, of lands which are held jointly by such shareholders, shall, as far as possible, apply to the allotment of the proportionate share of such common lands to the estate under partition;

and, in respect of the service of notices, hearing of objections, and all other procedure in view to such allotment, the proprietors of the estate under partition, and the proprietors of all other estates who have an interest in the said common lands, shall be deemed to be joint proprietors of a parent-estate consisting only of the lands so held in common:

Provided that all expenses of any division of lands so held in common between the proprietors of two or more estates shall be deemed to be expenses of making the partition of the estate which is under partition, and shall be leviable as provided by this Act from the proprietors of such estate, and the

proprietors of any other estate having an interest in such lands shall not be required to bear any portion of such expenses.

Proprietors of other estates may be required to pay portion of expenses of partition.

113. Notwithstanding anything contained in the last preceding section, if it shall appear to the Commissioner, on the report of the Collector or otherwise, that the proceedings for such division have been unnecessarily delayed, and the cost of such division enhanced by obstacles vexatiously put in the way of the completion of such division by any proprietor of any estate other than that under partition, or by want of due diligence on the part of any such proprietor in carrying out any requisitions made upon him, the Commissioner may direct that such sum as he shall think fit shall be levied from every such proprietor who is responsible for such delay or additional cost, and every sum so levied shall be taken in diminution of the amount payable by the proprietors of the estate under partition as costs of such partition.

Allotment of lands held in common to be sanctioned by Collector.

114. The allotment to the estate under partition of the proportionate share of the lands so held in common shall be submitted for the approval of the Collector, who may confirm, amend or reject the same, and in the case of rejection, may make or direct to be made another allotment.

Portion of common lands assigned to estate under partition how dealt with.

115. As soon as the allotment to the estate under partition of a proportionate share of the said lands shall have been approved by the Collector, the lands so allotted shall be dealt with in every respect as if they were held in common tenancy by such of the proprietors of the estate under partition as were found to hold interests in the common lands.

Procedure in case of dispute as to whether lands form part of parent-estate.

116. If a dispute or doubt shall be found to exist as to whether any lands form part of the parent-estate, the Deputy Collector shall enquire into the fact of possession, and shall report his conclusions, with the reasons thereof, to the Collector; whereupon

the Collector may (whether the possession of disputed lands is with the proprietors of the parent-estate or otherwise) order that the partition be struck-off the file, and in that case no application for a partition of the said estate shall be admitted until the applicant can show that the dispute or doubt has been decided by a Court of competent jurisdiction, or has been amicably settled;

Procedure when Collector thinks that lands belong to parent-estate.

or if the Collector shall find that possession of the disputed lands is with the proprietors of the parent-estate, and if it shall appear to him that the claim of the other parties to the right in such lands is untenable, he may order that the partition shall proceed, and that the disputed lands be treated as part of the estate under partition:

Provided that no partition shall be made under this section, if such partition would involve the assignment to any separate estate of such a quantity of the disputed land that the removal of such land from such estate would, in

the opinion of the Collector, endanger the safety of the land-revenue for which such estate would be liable after the partition.

Procedure when partition completed and proprietor of estate dispossessed by order of competent Court.

117. If after a partition has been completed in accordance with an order passed by the Collector under clause 3 of the last preceding section, the proprietor of any separate estate shall be dispossessed by a decree of a Court of competent jurisdiction of any lands which may have been assigned to his estate by the partition, such proprietor shall not be entitled to claim any modification of the partition (which shall hold good), but shall be entitled to recover from the proprietors of the other separate estates formed by the partition such compensation as may be fair and equitable, having regard to the reduction in the proportionate value of his separate estate which is caused by such dispossession ;

and such compensation may be recovered in a Court of competent jurisdiction from the proprietors of those separate estates on which a proportionate share of the total loss caused by the order of dispossession does not fall.

PART IX.

Of the Procedure before the Commissioner up to the Completion of the Partition.

When Commissioner may consider case without notice.

118. If no appeal or objection shall be presented within the time allowed by section 84, the Commissioner may proceed to consider the case without issue of any notice, and may confirm the partition made by the Collector.

Commissioner to fix day for hearing case.

119. If it shall appear to the Commissioner that the proceedings of the Collector should be amended, or if a petition of appeal or an objection shall have been presented within the time allowed by section 84, the Commissioner shall fix a day for hearing and disposing of the case, and shall cause a notification of the same to be published and a notice of the same to be posted up in his own office.

Commissioner to confirm partition, or amend or return paper.

120. On the day so fixed, which shall not be less than thirty days after the publication of the said notification at the office of the Collector, or on any subsequent day to which the hearing of the case may extend, or on any subsequent day to which the hearing may have been postponed by a notice published in his own office, the Commissioner shall, after hearing and disposing of all objections, and calling for any further information which may be necessary, either confirm the partition as made by the Collector or amend the same, or return the papers of the partition to the Collector for any changes the Commissioner may think proper to be made.

If the partition is returned to the Collector for amendment, the Collector shall proceed to make the said amendments or to cause them to be made in the same manner as if he had himself passed such orders on a partition submitted to him for approval by a Deputy Collector.

Commissioner may return papers for amendment or enquiry.

121. The Commissioner may, before confirming a partition, return the papers for amendment or enquiry as often as he shall think fit, and as often as he shall so return them the procedure prescribed in the three last preceding sections shall be followed.

Procedure of Collector on order of Commissioner or of Board on appeal.

122. After the expiration of not less than sixty days from the date of the order of the Commissioner confirming a partition, or, if an appeal has been preferred to the Board, or if any proceedings in respect of the partition be pending before the Board, then on receipt of the final order of the Board determining that the partition as sanctioned by the Commissioner shall not be disturbed, the Collector shall cause to be published in his office, and in some conspicuous place in each of the estates separately constituted by such order, a notice that the partition has been finally confirmed as it was sanctioned by the Commissioner, or with any amendments or alterations, as the case may be.

If the partition as finally sanctioned involves any amendments which may conveniently be made on the extracts of the partition-paper and on any maps which have been prepared and delivered or offered by notice to the recorded proprietors as required by section 79 or section 85, the Collector shall cause a notice to be served on every recorded proprietor whose estate is affected by such amendments requiring him to produce such extracts and maps in order that such amendments may be noted on them;

and if the alterations made in the partition as finally sanctioned be such as to make it desirable to prepare fresh extracts and maps as aforesaid, the Collector shall cause such fresh extracts and maps to be prepared; and shall cause a notice to be served on each proprietor declaring the extract and map which was furnished or offered to him under section 79 or section 85, as the case may be, to be cancelled, and requiring him to take out of the Collector's office the fresh extract and map which have been prepared.

Procedure in giving possession of separate estates.

123. The Collector shall then proceed to give the several proprietors possession of the separate estates allotted to each, and, if necessary, may require the assistance of the Magistrate in giving such possession;

and shall cause to be served on every recorded proprietor of a separate estate a notice informing him that from the date specified in such notice the separate estate assigned to him (as described in the extract from the partition-paper prepared and delivered or offered to him under section 79, section 85 or the last preceding section, as the case may be) will be deemed to be separated from the parent-estate, and to be separately liable for the amount of land-

revenue specified in such notice, and calling upon him to enter into a separate engagement for the payment of such revenue.

Date specified in notice under preceding section.

124. The date specified in such notice shall not be more than three months after the proprietors have been put in possession of their respective separate estates as herein provided.

Each separate estate to be borne on revenue-roll as separately liable for revenue assessed upon it.

125. From the date specified in such notice, each separate estate shall be borne on the revenue-roll and general register of the Collector as a distinct estate separately liable for the amount of land-revenue assessed upon it under this Act; and shall be so liable, whether the proprietor have executed an agreement for the payment of the amount of land-revenue so assessed upon the said estate, or whether he shall have failed to execute such agreement.

Collector may direct construction of boundary-marks.

126. The Collector may direct the construction of such boundary-marks as he may think proper to distinguish the lands of each separate estate and the cost of such boundary-marks shall be deemed to be expenses of the partition.

Boundary-marks erected under this Act shall be assigned to zamíndárs, or to zamíndárs jointly with tenure holders, for preservation, as provided in the second clause of section 29 of "The Bengal Survey Act, 1875," and after they have been so assigned, the provisions of sections 19, 20 and 52 to 57 (both inclusive) of the said Act shall apply to such boundary-marks.

PART X.

MISCELLANEOUS.

Any point may be referred to arbitration.

127. The Deputy Collector, with the consent of all the parties concerned, may refer to arbitration any point arising in the course of a partition; and the provisions of sections 65 and 67 shall, as far as possible, be applicable to such references.

Case of proprietor who has created tenure.

128. If any proprietor of an estate held in common tenancy and brought under partition in accordance with the provisions of this Act shall have given his share or a portion of it in patní or other tenure or lease, such tenure or lease shall hold good, as regards the lands finally allotted to the share of the lessor, and only as to such lands.

Illustrations.

I.—A, the proprietor of a quarter share in a joint undivided estate held in common tenancy, gives to B a patní tenure of the whole of his interest in the estate, entitling B, as long as such estate is held in common tenancy, to collect one-fourth of the rent payable by every raiyat on the estate;

Partition of the said estate is made under this Act, and certain specific lands are assigned to A as his separate estate;

B will become patnídár of the entire separate estate which has been assigned to A, and will be entitled to collect the whole of the rents from the raiyats on that estate.

II.—A, the proprietor of a quarter share in a joint undivided estate held in common tenancy, gives to B a patní tenure of one-half of his share in the estate, entitling B, as long as such estate is held in common tenancy, to collect one-eighth of the rent payable by every raiyat on the estate;

Partition of the estate is made under the Act, and certain specific lands are assigned to A as his separate estate;

B will become patnídár of one-half of A's separate estate, and will hold his patní in common tenancy with the half of A's interest which A has not given in patní, so that B will be entitled to collect one-half of the rent payable by every raiyat on A's estate, and A will be entitled to collect the other half.

Two estates may be united.

129. If two or more estates shall come into the possession of one proprietor or of the same body of proprietors, such proprietor or body of proprietors, after being recorded as proprietors, may apply to have such estates united, and to hold them as a single estate.

Application for union how made, and how dealt with.

130. Such application shall be made in writing to the Collector, and the Collector shall, not less than thirty days after the issue of a notification of such application (provided he see no objection), comply with the same, and cause the necessary entries to be made in the records of his office, and shall report the case to the Commissioner.

Cause of sale of separate estate for arrears to be ascertained.

131. Whenever any separate estate created under this Act shall fall in arrear so as to require a sale of the land for the discharge of the arrear at any period within twelve years of the date of the confirmation of the partition, the Collector shall, if possible, ascertain the cause of the estate having fallen into arrear, and shall enquire whether such arrear has been caused by any fraudulent or erroneous allotment of the assessment or assignment of lands at the time of the partition, and shall make a report upon the case to the Commissioner for such action as the Commissioner may think proper.

When Lieutenant-Governor may order new allotment of land-revenue.

132. If it shall be proved to the satisfaction of the Lieutenant-Governor at any time within twelve years from the date of the final confirmation of a partition by the Commissioner or by the Board, as the case may be, that through any fraud or error at the time of making the partition the assets of the lands assigned to any separate estate were not in proportion to the amount of land-revenue for which such estate was made liable, or that the amount of land-revenue assessed on any separate estate was not in proportion to the assets of the lands assigned to such estate, the Lieutenant-Governor may order a new allotment of the land-revenue upon the separate estates in accordance with the principles prescribed in this Act, on an estimate of the assets of each such estate as they stood at the time of the partition, such estimate being made on such evidence and information as may be procurable respecting the same.

Under-assessed estates to refund to over-

133. Whenever the Lieutenant-Governor shall pass an order for the re-allotment of the land-revenue on any separate estate under the last preceding

assessed estates.

section, the Lieutenant-Governor may direct that the proprietors whose estates are found to have been under-assessed shall, for each year during which they have held possession of the separate estates, be required to pay to the recorded proprietors of the estates which have been over-assessed, a sum equal to the annual amount in which the latter shall be found to have been over-assessed, and in default of payment the amount shall be leviable as provided in section 138.

No order passed by the Lieutenant-Governor under this section shall be liable to be contested in any Court.

Publication of notifications under Act.

134. Every notification required to be published in and by this Act shall, unless it is otherwise specially directed, be published by posting up copies of the same at the office of the Collector, and of the Deputy Collector who is making or has made the partition, at the mál-kachahrí or mál-kachahrís (if any) of the proprietors of the parent-estate, and at one or more of the principal villages on the said estate.

Service of notice.

135. Every notice in and by this Act required to be served on any person may be served—

(1) by delivering the same to the person to whom it is directed,
or, on failure of such service, by posting the same on some conspicuous part of the house in which the said person usually resides,
or by delivering the said notice to a general agent of the person to whom such notice is directed, or to any person who has been appointed in that behalf, or who has been appointed an agent of the person to whom the notice is directed for the general purposes of any partition under this Act; or

(2) by sending a registered letter containing such notice directed to the said person at his usual place of abode or to the place where he may be known to be residing; or

(3) by posting a copy of the notice at any mál-kachahrí of the person to whom the notice is directed,
or, if no such mál-kachahrí be found, and if the notice cannot be served in any of the other modes mentioned in this section, on some conspicuous place on the estate to which such notice relates.

In all cases where two or more persons are joint applicants for the separation of an estate to be held by them jointly as a separate estate, service of notice under this section on any one such joint applicant shall be deemed to be good and sufficient service on each and all of such joint applicants.

Proceedings under Act not affected by mistake or

136. Provided the directions of this Act be in substance and effect complied with, no proceedings under this Act shall be affected by reason of any mistake or by reason of any other informality, unless any person has suffered, or is in

danger of suffering, material injury in consequence of such mistake or informality; misdescription.

and no proceedings under this Act shall be affected by reason of the omission to issue any notification required by this Act, or to serve any notice on any person whose name is not recorded on the Collector's registers as proprietor of the estate in respect of which the notice is required to be served.

137. If any proprietor or other person shall fail to comply, within the time fixed by a notice served on him as by this Act provided, with any requisition made upon him under this Act by the Collector or Deputy Collector, the Collector or Deputy Collector may impose upon him such daily fine as he may think fit, not exceeding fifty rupees; Fine for non-compliance with notice or requisition.

and such fine shall be payable daily until the requisition is complied with,

and the Collector or Deputy Collector may proceed from time to time to levy the amount which has become due in respect of any such fine, notwithstanding that an appeal against the order imposing such fine may be pending:

Provided that, whenever the amount levied under any such order shall have exceeded five hundred rupees, the Collector shall report the case specially to the Commissioner, and no further levy in respect of such fine shall be made otherwise than by authority of the Commissioner.

138. Except as herein expressly otherwise provided, all fees, fines, costs and other sums ordered to be paid by any person under this Act, shall be deemed to be demands under section 1 of Bengal Act VII of 1868[a] (*An Act to make further provision for the recovery of arrears of land-revenue and public demands recoverable as arrears of land-revenue*), and shall be leviable as such. Fees, &c., deemed demand under Bengal Act VII of 1868.

139. For the purpose of any enquiry under this Act, the Collector and Deputy Collector shall, in addition to every power conferred specially by this Act, have power to summon and enforce the attendance of witnesses, to examine witnesses and to compel the production of documents, by the same means (as far as may be), and in the same manner, as is provided in the case of a Court under the Code of Civil Procedure. Power of Collector to enforce attendance of witnesses.

140. All powers and functions which are assigned by this Act to a Deputy Collector may be exercised and discharged by the Collector; and whenever it is provided by this Act that any act done, or order made, by a Deputy Collector shall require the sanction of the Collector, or shall be appealable to the Collector, if such act shall have been done or such order shall have been made by the Collector, it shall be deemed to have been sanctioned by the Collector, or to have been confirmed by the Collector in appeal, as the case may be. Powers and functions assigned to Deputy Collector may be exercised by Collector.

141. The Lieutenant-Governor may vest any Collector or Deputy Collector Government

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[a] See *supra*, p. 582.

may vest Collector or Deputy Collector with certain powers.

with all or any of the powers which, under the provisions of any law for the time being in force, might be exercised by them respectively, or might be conferred on them respectively, if they were making a settlement of the parent-estate.

Such powers may be conferred either generally in respect of all estates in the partition of which the Collector or Deputy Collector may at any time and in any district be engaged, or specially in respect of any particular estate.

Appeal to Collector.

142. An appeal, if presented within one month from the date of the order appealed against, shall lie to the Collector against every order of a Deputy Collector

(*a*) directing, under section 41, by whom the costs of an enquiry held in consequence of an objection preferred shall be paid;

(*b*) accepting or adopting any papers under section 63 for the purposes of a partition;

(*c*) refusing, under section 68, to confirm a partition made by the parties or by arbitrators;

(*d*) fixing, under section 89, the limits of land and the rent to be paid for it in perpetuity;

(*e*) refusing, under section 104, to make a partition as applied for by the joint applicants;

(*f*) passed under section 110 in respect of lands held rent-free, or under section 111 in respect of lands included in a tenure;

(*g*) imposing a fine under section 137.

Appeal to Commissioner.

143. An appeal, if presented to the Commissioner, or to the Collector for transmission to the Commissioner, within one month from the date of the order appealed against, shall lie to the Commissioner against every order of the Collector (whether such order be passed by the Collector in the first instance, or in appeal from the order of a Deputy Collector)

(*a*) having the effect of rejecting an application for the partition of an estate, or for the separation of a share, or of putting an end to proceedings for effecting a partition or separation after the application has been admitted;

(*b*) directing, under section 31, that an application for partition or separation be admitted;

(*c*) accepting or adopting any papers under section 63 for the purposes of a partition;

(*d*) refusing, under section 68, to confirm a partition made by the parties or by arbitrators;

(*e*) setting-aside, amending or approving the general arrangement of the partition under section 75;

(*f*) approving, with or without amendment, a partition made by a

Deputy Collector, or directing such partition to be amended or a fresh partition to be made, or making a fresh partition under section 81;

(*g*) fixing, under section 89, the limits of land and the rent to be paid for it in perpetuity;

(*h*) refusing, under section 102, to allow a partition to be made in accordance with an existing private division;

(*i*) passed under section 110 in respect of lands held rent-free, or under section 111 in respect of lands included in a tenure;

(*k*) approving or disallowing, under section 114, the allotment to the estate under partition of a portion of lands held in common tenancy between the proprietors of such estate and the proprietors of one or more other estates;

(*l*) passed under section 116 as to disputes or doubts regarding land;

(*m*) imposing or confirming the imposition of a fine under section 137;

(*n*) imposing any fine amounting to more than fifty rupees, or directing the payment of any costs amounting to more than fifty rupees.

Appeal to Board.

144. An appeal, if presented to the Board, or to the Commissioner for transmission to the Board, within six weeks from the date of the order appealed against, shall lie to the Board against every order of the Commissioner which confirms, modifies or reverses any order of the Collector

(*a*) having the effect of rejecting an application for the partition of an estate, or for the separation of a share, or of putting an end to proceedings for effecting a partition or separation after the application has been admitted;

(*b*) directing, under section 31, that an application for partition or separation be admitted;

(*c*) accepting or adopting any papers under section 63 for the purposes of a partition;

(*d*) approving or disallowing, under section 114, the allotment to the estate under partition, of a portion of lands held in common tenancy between the proprietors of such estate and the proprietors of one or more other estates;

and against every order of the Commissioner

(*e*) directing, under section 40, that any proprietor shall pay more than his proportionate share of the expenses of a partition, when the excess which he is ordered to pay exceeds five hundred rupees;

(*f*) directing, under section 113, that any sum shall be paid by the proprietor of an estate other than the estate under partition, when such sum exceeds five hundred rupees;

(*g*) confirming, under section 118 or section 120, or amending or setting-aside under section 120, a partition as made by the Collector;

(*h*) imposing or confirming the imposition of any fine amounting to five

hundred rupees, or ordering or confirming an order directing the payment of any costs amounting to more than five hundred rupees.

No appeal against order passed under Act.

145. Except as provided in the three last preceding sections, no appeal shall lie as of right against any order passed under this Act by any officer; but the proceedings and orders of every Deputy Collector under this Act shall be subject to the supervision and control of the Collector; the proceedings and orders of every Deputy Collector and of the Collector, to the supervision and control of the Commissioner; and the proceedings and orders of all revenue-officers, to the supervision and control of the Board;

and any order passed and anything done under this Act may be modified, amended or reversed by the supervising and controlling authority at any time before possession of their respective separate estates has been given to the several proprietors as provided in section 123, but not after such such possession has been given, except as provided in the next succeeding section.

Proceedings in giving possession may be set-aside within 3 months of date of giving possession.

146. Any proceedings of a revenue-officer connected with giving possession to the proprietors of their respective separate estates as provided in section 123, may be set-aside or amended as above provided by any supervising and controlling revenue-authority, provided that such supervising and controlling authority shall, within three months of the date on which such possession may have been given, make an order to the effect that such proceedings are under the consideration of such authority.

Such order shall be communicated to the Collector of the district, who shall cause the same to be published by notification in the manner prescribed by section 134.

Orders as to costs on appeal.

147. The Commissioner and the Board may pass such orders as they shall think fit in respect of the payment of costs of any appeal which is made to them respectively under this Act.

Powers of officers exercising jurisdiction under Act with regard to false evidence.

148. If, in any case in which a Collector or other officer shall exercise jurisdiction under this Act, any person is guilty of the offence of giving or fabricating false evidence, or of forgery, as defined in the Indian Penal Code, or of abetting any of those offences, such Collector or other officer shall have the same powers in respect of such offence, and of the person charged with committing the same, as are vested by the Code of Criminal Procedure in a civil Court, when any such offence is committed before or against such Court, or when a document believed to be a forgery is given in evidence in any proceedings in such Court.

Orders of revenue-officer not liable to be set-aside by civil suit.

149. No order of a revenue-officer

(*a*) refusing to allow a partition on the grounds mentioned in section 11;

(*b*) rejecting or directing to be amended an application under section 20;

(*c*) made under the first clause of section 32;

(*d*) made under Part IV, Part V, Part VI, Part VII, Part VIII (except as provided in the next succeeding section) or Part IX;

(*e*) imposing a fine;

(*f*) in respect of the payment of costs of any appeal under section 147,

shall be liable to be contested or set-aside by a suit in any Court, or in any manner other than as is expressly provided in this Act.

When suit may be brought to set-aside order of revenue-officer.

150. Notwithstanding anything contained in clause (*d*) of the last preceding section,

any person claiming a greater interest in any lands which were held in common tenancy between two or more estates than has been assigned to him by the order of a revenue-officer under section 112 or section 114;

and any person who is aggrieved by any order of a revenue-officer passed under section 116,

may bring a suit in a Court of competent jurisdiction to modify or set-aside such orders of the revenue-officer.

Board to be guided by instructions of Lieutenant-Governor.

151. In the execution of the duties vested in the Board by this Act, the Board shall be guided by such orders or instructions as they may from time to time receive from the Lieutenant-Governor.

Board may lay down rules.

152. The Board may, from time to time, make rules, not being inconsistent with this Act—

(*a*) to regulate the expenses of effecting partitions, or the amount of fees to be levied in respect of partitions, the allotment of the same among the proprietors, and the instalments in which, and the times at which, the same shall be levied under Part IV;

(*b*) to regulate the receipts, disbursements and management of any "Estates' Partition-Fund" formed under section 45;

(*c*) to regulate the employment and remuneration of Amíns and other subordinate officers appointed under Part IV, to enable the officer making the partition to keep himself informed of the proceedings of such officers, and to exercise a proper control over them;

(*d*) to regulate the form in which the partition-papers shall be framed under section 66 and section 77;

(*e*) and generally for the guidance of officers in conducting partitions under this Act.

SCHEDULE.

(*See section 2*).

Number and year.	Subject or abbreviated title.	Extent of repeal.
Regulation XI of 1811 ...	For extending period of revising jama on certain lands.	So much as has not been repealed.
Regulation XIX of 1814 ...	Consolidating Regulations respecting Partition of Estates.	Ditto.
Act XX of 1836 ...	Quashing of Batwáras	Ditto.
Act XI of 1838	Remuneration of persons effecting a partition.	Ditto.

ACT No. II OF 1877.

Received the Lieutenant-Governor's assent on the 11th of May 1877, and the Governor General's assent on the 28th idem.

An Act to provide for the levy of a cess for the construction, charges and maintenance of Provincial Public Works.

Preamble. WHEREAS it is expedient to empower the Lieutenant-Governor of Bengal to levy a cess on immoveable property, and to apply the proceeds of the same to the construction, charges and maintenance of provincial public works; It is enacted as follows:—

Short title. 1. This Act may be called "the Provincial Public Works Act, 1877:"

Extent. It shall extend to all the districts or parts of districts in which the District Road-cess Act, 1871, is, or may from time to time be, in force. But the Lieutenant-Governor, by notification in the *Calcutta Gazette*, may exempt any district or sub-division of a district, or any estate or tenure, from the operation of this Act, and may at any time, by a similar notification, cancel such exemption.

Commencement. It shall come into force from the date on which it may be published in the *Calcutta Gazette* with the assent of the Governor General.

Immoveable property liable to cess. 2. From and after the commencement of this Act, all immoveable property situated within the districts or parts of districts in which this Act is, or may from time to time be, in force shall be liable to the payment of a cess (hereinafter called "the public works cess,") to be applied to the construction,

charges and maintenance of provincial public works, and such cess shall be recoverable from the several owners and occupiers of such property as hereinafter provided.

Valuations for purposes of Act.

3. All valuations of immoveable property which have been, or may from time to time be, determined under Parts II, III and IV of the District Road-cess Act, 1871, shall be deemed to be valuations of immoveable property for the purposes of this Act.

Lieutenant-Governor to determine rate of cess.

4. The Lieutenant-Governor shall, by an order published in the *Calcutta Gazette*, from year to year determine the rate at which the public works cess shall be leviable in each district, and the date from which it shall take effect; such rate shall not exceed one-half of an anna in the rupee of the annual value of the lands in such district.

Mode of payment of cess.

5. All holders of estates or tenures and cultivating raiyats shall pay the public works cess at the rate determined under the last preceding section, and in the manner and the proportions prescribed for the payment of the road-cess by section 21 of the said District Road-cess Act; and the provisions of sections 22, 23, 24, 25, 26 and 27 of the said Act shall apply to the public works cess.

Cess on mines, quarries, railways, &c.

6. Every mine, quarry, tramway, railway or other immoveable property, not included within the provisions of Part II and Part IV of the said District Road-cess Act, shall be liable to the payment of the public works cess at the rate determined under section 4 of this Act, and in the manner and subject to the limitations prescribed for the payment of the road-cess by section 28 of the said District Road-cess Act; and the provisions of sections 36 and 37 of the said Act shall apply to the public works cess.

The notices required to be served under sections 22 and 36 of the said District Road-cess Act may also include the amount of public works cess payable under this Act.

Cess on houses.

7. All houses of any of the classes mentioned in schedule (E) annexed to the said District Road-cess Act shall, save as is provided in section 40 of the said Act, be liable to the payment of the public works cess at the rates specified in the said schedule, and in the manner prescribed for the payment of the road-cess by section 39 of the said District Road-cess Act; and the provisions of sections 45, 46, 47 and 48 of the said Act shall apply to the public works cess.

Application of proceeds and keeping of accounts.

8. The proceeds of the public works cess shall be paid into the public treasury, and shall be applied to the construction, charges and maintenance of provincial public works in such manner as the Lieutenant-Governor may direct.

Accounts of the moneys received and expended under the provisions of this Act shall be kept in such form as the Lieutenant-Governor may prescribe, and

a statement showing the receipts, expenditure and balance of the public works cess shall be published annually in the *Calcutta Gazette*.

Interpretation-clause.

9. In this Act the words and expressions "house," "estate," tenure," "district," "immoveable property," "holder of an estate or tenure," "cultivating raiyat" and "annual value of land," shall have the meanings attributed to them respectively in the said District Road-cess Act.

Power to declare what are provincial public works, and to make rules.

10. The Lieutenant-Governor shall have power to declare, by notification in the *Calcutta Gazette*, what works are to be deemed provincial public works for the purposes of this Act, and shall have the same powers to make rules for the purposes of this Act as are conferred by section 97 of the said District Road-cess Act.

ACT No. I OF 1878.

Received the Lieutenant-Governor's assent on the 14th of February 1878, and the Governor General's assent on the 24th idem.

An Act for the licensing of Trades, Dealings and Industries within the territories subject to the Lieutenant-Governor of Bengal.

Preamble.

WHEREAS, in order to provide means for defraying the public expenditure from time to time incurred and to be incurred for the relief and prevention of famine in British India, it is necessary to effect a permanent increase of the revenue, and it is therefore expedient that persons carrying on trades, dealings and industries in the territories administered by the Lieutenant-Governor of Bengal should take out licenses and pay for the same; It is hereby enacted as follows:—

PART I.

Preliminary.

Short title. Commencement.

1. This Act may be called "The Bengal License Act, 1878," and it shall come into force from the date on which it may be published in the *Calcutta Gazette* with the assent of the Governor-General.

Application.

Parts I, II and V of this Act apply to all the territories subject to the Lieutenant-Governor of Bengal, including the town of Calcutta; Part III applies to all such territories except the town of Calcutta; and Part IV applies only to the town of Calcutta.

Interpretation-clause.

2. In this Act, unless there be something repugnant in the subject or context—

"Collector."

"Collector" means the chief officer in charge of the revenue-administration of a district:

"the Commissioners," except in Part IV, mean the Commissioners defined in Bengal Act V of 1876,[a] and in Part IV the Commissioners defined in Bengal Act IV of 1876:[b] "The Commissioners."

"Local Government" means the Lieutenant-Governor of Bengal for the time being, or the person acting in that capacity: "Local Government."

"section" means a section of this Act. "Section."

3. Nothing in this Act shall be deemed to affect the tax on professions, trades and callings imposed for municipal purposes by Bengal Act IV of 1876. Saving of Bengal Act IV, 1876.

4. Nothing in this Act shall be deemed to apply to persons earning their livelihood solely by agriculture, or to any cultivator of land as such in respect of the sale of the produce of his land, when he shall not keep a shop or stall for the sale of such produce, or to any receiver of rent in kind in respect of the sale of produce received as such rent. Act not to apply to cultivators of land or landlords receiving rent in kind.

PART II.

General Provisions applicable in all Districts.

5. Every person who, on or after the first day of April, 1878, falls under any of the heads of the schedules hereto annexed, and carries on (whether on behalf of himself or any other person) his trade, dealing or industry in any district situated in the said territories, shall take out a license under this Act in such district, and shall pay for the same the annual fee specified in the same schedules as payable by persons of the class to which he belongs: Annual licenses to be taken out.

Provided that no person whose annual earnings from his trade, dealing or industry carried on within such district are less than one hundred rupees shall be required to take out a license under this Act.

For the purposes of this Act the town of Calcutta shall be deemed to be a separate district.

6. Such license shall be granted by the Collector of such district, or by such officer as he may appoint in this behalf; and in Calcutta by the chairman of the Municipal Commissioners. Officer to grant license.

7. Every such license shall specify— Particulars to be specified in license.

(*a*) the date of the grant thereof;

(*b*) the name, father's name, residence, caste, if any, and the trade, dealing or industry of the licensee;

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[a] See *supra*, p. 1008. [b] See *supra*, p. 909.

(*c*) the fee paid for the license;

(*d*) the place or places within such district at which the licensee intends to carry on his trade, dealing or industry for the ensuing year;

(*e*) the term for which such license shall remain in force; and shall be received in evidence as *primâ facie* proof of all matters contained therein.

Commencement and expiration of license.

8. Every such license shall have effect in such district only, and shall continue in force from the day of the date thereof until the first day of April next after the day of the granting thereof.

Renewal of license.

9. Every person to whom any such license has been granted, and who desires to continue to carry on his trade, dealing or industry in such district after the expiration thereof, shall take out a fresh license for that purpose for the following year, to expire on the day appointed in the last preceding section, and shall renew the same so long as he desires to carry on such trade, dealing or industry.

PART III.

Applicable to all Districts except Calcutta.

Collector to prepare annual list of licensees.

10. As soon as may be after the commencement of this Act, and the first day of January in every subsequent year, the Collector shall prepare a list of the persons in the district aforesaid to be licensed under this Act. Such list shall state—

(*a*) the trade, dealing or industry of each of the persons therein named;

(*b*) the class and grade under which he is charged; and

(*c*) the fee to be paid for his license.

Such list shall be in such language as the Local Government may direct, but a copy thereof in the language of the district shall be filed in the office of the Collector, and shall be open to public inspection at all reasonable times without any payment.

The Local Government shall have power to declare what shall, for the purposes of this Act, be deemed to be the language of the district.

Collector may require list of persons in any house.

11. The Collector may by a notice in writing require the occupier of any house, manufactory or shop to forward to him a statement in writing signed by the occupier of the names of all persons residing in such house or working in such manufactory or shop, and of their respective trades, dealings, industries or occupations.

Collector to determine class under

12. The Collector shall from time to time determine under which of the classes or grades mentioned in schedule A hereto annexed every person required

to take out a license under this Act shall be charged, and shall prepare or amend the said list accordingly. which licensee to be charged.

13. A person or firm carrying on several trades, dealings or industries in the same district, and coming under more than one of the designations in the said schedule, shall be chargeable only under one of the said designations at the discretion of the Collector. Persons carrying on several trades.

And in the case of a firm, payment by any one of the partners shall, for the purposes of this Act, be considered payment by the firm.

14. The Collector may, subject to such rules as the Local Government may lay down, remit the whole or any part of the fee payable under this Act by any person who may carry on his trade, dealing or industry for a portion of the year only. Power to remit fee.

15. The list, or such part or parts thereof as the Collector thinks fit, shall be published in the principal bázárs and at all Police-stations of all towns, and at all sub-divisional offices, Police-stations and out-posts in the district, and at some conspicuous place in all villages concerned, together with a notification setting forth the schedule hereto annexed applicable to the district, and directing that if any person falling under any of the classes specified in the said schedule, whether he is mentioned in such list or not, continues his trade or dealing in the said district, payment of the fee specified in the list as payable by him, or, when he is not mentioned in such list, of the fee mentioned in the said schedule as payable by persons of the class and grade to which he belongs, must be made by him within sixty days of the date of the publication of the notification, and within sixty days next after the first day of April of each succeeding year. Publication of list and notification.

16. When a statement in writing has been furnished to the Collector under section 11, from which it appears that any person in the employ of any other person, Company or Corporation is chargeable with fees under this Act, the Collector may require the employer of such person to deduct the amount of his fee from any salary or wages due to such person, and to pay it to the Collector on his behalf. Levy of fees on artisans and others in large works.

17. Any person mentioned in the list referred to in section 10, and objecting to the class or grade in which he is charged, may, within thirty days after its publication, or within such further time as the Collector may in each case think fit, apply by petition to the Collector in order to establish his right to have his name transferred to another class or grade, or altogether removed from the list. Petition of objector.

18. The Collector shall fix a day for the hearing of the petition, and on the day so fixed, or on such subsequent day as he may from time to time direct, shall hear the same and pass such order thereon as he thinks fit: Hearing of petition.

Provided that, if in the judgment of the Collector the petitioner is able to show that the fee which has been charged exceeds two per centum upon his annual earnings in his trade, dealing or industry within the district, such excess shall, for the purpose of section 17, be deemed a valid ground of objection, and the Collector shall thereupon order the petitioner's name to be transferred to another class or grade, or to be altogether removed from the list.

The Collector may also on this ground at any time reduce the amount of fee payable by any person under class V of schedule A hereto annexed, to the fee payable under class VI.

Appeals.

19. There shall be no appeal from an order of a Collector under section 18; but where the order is passed by any officer subordinate to a Collector, an appeal shall lie to the Collector or to some officer specially empowered by the Local Government in this behalf, whose decision shall be final.

Every petition of appeal under this section shall be accompanied by a copy of the order complained of, and be presented within fifteen days of the date of such order.

In computing the said period of fifteen days, the day on which the order complained of was made, and the time requisite for obtaining a copy of the same, shall be deducted.

Power to summon witnesses, &c.

20. The Collector may, for the purpose of enabling him to determine under which of the said classes or grades the petitioner should be charged, summon and enforce the attendance of witnesses and compel them to give evidence, and compel the production of documents, by the same means, and, as far as possible, in the same manner, as is provided in the case of a civil Court by the Code of Civil Procedure:

Provided that the Collector shall not, in the course of any proceedings under this section, call for any evidence except at the instance of the petitioner, or in order to ascertain the correctness of facts alleged by him.

Penalty for carrying on business without license.

21. If, after expiry of the period mentioned in the notification published under section 15 for payment of the amount specified therein, any person carries on his trade, dealing or industry without having taken out a license as required by this Act, he shall be liable by order of the Collector to pay a fine not exceeding thrice the amount payable by him in respect of such license, exclusive of the amount so payable; and on receipt of such payment the Collector shall grant him a license.

Recovery of fees and penalties.

22. All sums due under section 21 and all fees payable under this Act shall, where the amount exceeds fifty rupees, be recoverable either as if they were arrears of land-revenue, or by distress and sale of the moveable property of the person liable, at the discretion of the Collector.

In all other cases they shall be recoverable by distress and sale of the moveable property of the person liable.

The provisions of sections 113, 114, 115 and 119 of Bengal Act V of 1876[a] shall apply as far as possible to warrants of distress and sale issued by the Collector under this section, and no tools or implements of trade or agriculture shall be distrained or sold under any such warrant.

Limitation.

23. No sums due under this Act shall be recoverable by any process of law after the expiry of three months from the last day of the year in respect of which they are payable.

License to be produced on demand.

24. Every person holding a license under this Act shall produce and show such license when required so to do by an officer generally or specially empowered in writing by the Collector to make such requisition.

Prosecution to be at instance of Collector.

But, save so far as is provided in section 29, no person shall be proceeded against for neglect or refusal to produce such license except at the instance of the Collector.

Courts of Wards, receivers and managers chargeable.

25. Courts of Wards and receivers and managers, appointed by any Court in British India, shall be chargeable under this Act in respect of any trade, dealing or industry of which the income is officially in their possession or under their control.

Power to trustee, &c., to retain money for payment of fee.

26. When any trustee, guardian, curator, committee or agent is charged under this Act in such capacity, or when any Court of Wards or receiver or manager, appointed by any Court, is charged under this Act, every Court and person so charged may, from time to time, out of the money coming to its or his possession as such trustee, guardian, curator, committee or agent, or as such Court of Wards, receiver or manager, retain so much as is sufficient to to pay the fee charged.

Every such person or Court is hereby indemnified for every retention and payment made in pursuance of this Act.

Power to require returns from municipalities.

27. The Collector may require the Commissioners and the panchâyat of any union constituted under Bengal Act V of 1876,[b] or any village-panchâyat appointed under Bengal Act VI of 1870,[c] to furnish, within a period to be specified under the orders of the Local Government, returns showing the names and numbers of persons chargeable under this Act resident within the limits of their municipality, union or village, together with the class under which they respectively fall and the fees payable by them respectively.

If the Commissioners or the panchâyat fail within the period prescribed to make such returns, or if they make such returns and the Collector has reason to doubt their accuracy, he may at any time revise the return or cause a

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[a, b] See *supra*, p. 1008. [c] See *supra*, p. 675?

return showing the names, numbers and classes aforesaid to be prepared in such manner as may be prescribed by the Local Government.

Such return when finally accepted or settled by the Collector shall be deemed to be the list referred to in section 16.

Petition of objection.

On the presentation of a petition of objection under section 17 by any person entered in such list, the Collector may either dispose of it himself or may refer it to any officer specially empowered by Government under section 19, or to a bench of not less than three Commissioners, whose decision shall be final.

Notice to municipalities.

28. When the return mentioned in the last preceding section has been furnished or prepared for any municipality, station or union, the Local Government may call upon the Commissioners, or may direct the Magistrate in the case of a union, to pay to the Collector, within a period to be named by the Local Government, a sum calculated on such return in accordance with the provisions of this Act, after such deduction for necessary expenses as the Local Government may fix.

Penalties and fines to be credited to municipal funds.

29. The Commissioners and Magistrate as aforesaid may take proceedings under sections 21 and 24 for the recovery of any penalties and fines, and shall exercise the powers conferred on a Collector by section 24.

All such penalties and fines shall, when so recovered, be credited to the municipal, station or union-fund, as the case may be.

Power of recovery in municipalities.

30. The Commissioners and the Magistrate as aforesaid shall have the same powers of recovering the fees chargeable under this Act within the limits of their municipality, station or union that they have for the realization of municipal taxes under Bengal Act V of 1876.[a]

Where the amount due exceeds fifty rupees and it cannot be recovered in the manner above provided, application may be made by the Commissioners or Magistrate aforesaid to the Collector, and the Collector shall thereupon proceed to recover it as an arrear of land-revenue.

The said Commissioners or Magistrate may also appropriate any part of the revenues of their municipality, station or union for the payment of any sum leviable from it under section 28; and if the sum so leviable is not paid at due date, the Local Government may order it or any part of it to be deducted from any funds standing to the credit of the municipality, station or union in any Government-treasury.

Exemption of licensees from house-cess under Road-cess and Public Works Acts.

31. No person who pays fees under this Act shall, so long as he continues to pay the same, be liable to pay any instalment of road-cess or public works cess on his house under Part IV of Bengal Act X of 1871,[b] or section 7 of Bengal Act II of 1877,[c] falling due after the first day of April, 1878.

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[a] See *supra*, p. 1008. [b] See *supra*, p. 719. [c] See *supra*, p. 1172.

Exercise of powers of Collector by other officers.

32. All or any of the powers and duties conferred and imposed by this Act on a Collector may, subject to the orders of the Collector of the district, be exercised and performed by any Assistant or Deputy Collector, or by such other officer as the Local Government shall from time to time appoint in this behalf.

PART IV.

Special Provisions for the Town of Calcutta.

Special scale of fees in Calcutta.

33. From every person who shall within the town of Calcutta exercise any of the trades, dealings, industries or callings included in the classes specified in schedule B hereto annexed, the Commissioners shall levy the fees shown in the said schedule, and shall pay to the Local Government annually a sum to be fixed by such Government and calculated on the proceeds of such fees.

For the purposes of this Part, any person working or carrying on business in Calcutta shall be deemed to be a resident of Calcutta, and the town of Calcutta shall be deemed to include all places within the local limits of the ordinary original jurisdiction of the High Court of Judicature of Fort William in Bengal, including Fort William itself, the river Hugli within Port limits, the Esplanade, and Coolie Bázár, now called Hastings.

Procedure in Calcutta.

34. The provisions of sections 10, 11, 12, 13, 14, 15, 16, 17, 20, 21, 23, 24, 25 and 26 shall be in force in the town of Calcutta, and all the powers of a Collector under the said sections shall be exercised by the chairman of the Commissioners, or by some person or persons authorized by him in that behalf.

Petition of objection.

35. On the presentation of a petition of objection under section 17, the chairman may either himself dispose of it, or may refer it for disposal to a bench of not less than three Commissioners.

The chairman or any such bench may reduce the amount of fee payable by any person under the said schedule B to the fee payable under any lower class or grade of that schedule, on its being shown to his or their satisfaction that the fee charged exceeds two per centum upon the annual earnings of such petitioner in his trade, dealing or industry carried on within the limits of the said town of Calcutta; and the chairman shall amend the list published under section 15 in accordance with the orders passed upon such petition.

There shall be no appeal from any orders passed under this section.

Recovery of sum due under Part.

36. The Commissioners shall have the same powers for the recovery of all sums due under this Part that they have for the realization of municipal rates under Bengal Act IV of 1876.[a]

[a] See *supra*, p. 909.

PART V.

Miscellaneous.

Disposal of fees and penalties.

37. From the nett amount of all fees and penalties paid or recovered under this Act other than those credited to municipal, station or union-funds under section 29, after deducting the expense of collection, so much as the Governor General in Council from time to time directs shall be applied, in such manner as the Governor General in Council thinks fit, for the purpose of increasing the revenues available for defraying expenditure incurred or to be incurred for the relief and prevention of famine in the territories administered by the Local Government, or, if the Governor General in Council so directs, in any other part of British India.

The residue (if any) of such nett amount shall be carried to the credit of the Local Government.

Obligation to furnish information.

38. Every person shall be legally bound to furnish information to any officer or person exercising any of the powers of a Collector under this Act when required by him to do so.

Power to exempt and make rules.

39. The Local Government may from time to time (*a*) exempt from the operation of this Act any portion of the territories subject to such Government, or any persons or class of persons in such territories, and may (*b*) make rules consistent with this Act—

(1) for defining more precisely the classes of persons liable under this Act;

(2) for regulating the time and manner of collecting the fees charged under this Act;

(3) for reducing the fees chargeable to members of the same family when living and working together;

(4) for providing in any case or class of cases for serving notices on persons charged under this Act, and

(5) generally for the guidance of officers in all matters connected with the enforcement of this Act.

SCHEDULE A.

Fees for Licenses applicable throughout the Territories subject to the Lieutenant-Governor of Bengal with the Exception of the Town of Calcutta.

Class I.—Every joint-stock company; every banker; every wholesale-merchant, dealer, commission-agent or manufacturer; every professional money-lender; every ship-owner; and every mill-owner or screw-owner.	First Grade, Rs. 500. Second Grade, Rs. 200.

Rs.

Class II.—Every person carrying on any trade, dealing or industry who shall be adjudged by the Collector to be a licensee of this class 100

Class III.—Every person carrying on any trade, dealing or industry who shall be adjudged by the Collector to be a licensee of this class 50

Class IV.—Every person carrying on any trade, dealing or industry who shall be adjudged by the Collector to be a licensee of this class 20

Class V.—Every person carrying on any trade, dealing or industry within any first class municipality and not charged under any of the foregoing classes, and every other person who shall be adjudged by the Collector to be a licensee of this class 5

Class VI.—Every person carrying on any trade, dealing or industry and not charged under any of the foregoing classes } First Grade, Rs. 2. Second Grade, Re. 1.

SCHEDULE B.

Fees for Licenses applicable only in the Town of Calcutta.

Class I.—Every joint-stock company; every banker, sharáf or banian; every wholesale-merchant, dealer, commission-agent or manufacturer; every builder; every contractor; every carrying-company; every owner or farmer of háts or bázárs; every owner of cotton, jute, hide or other screws; every ship-owner or dock-owner or owner of chauks; and every auctioneer. } First Grade, Rs. 500. Second Grade, Rs. 200.

Rs.

Class II.—Every broker or dalál employed in the wholesale transfer or purchase of imports or exports, country-produce, silk or other merchandise; every broker or dealer in precious stones, houses, landed property, Government-securities, shares and bills-of-exchange; every freight-broker; every owner or lessee of a theatre or other place of public amusement; and every wholesale bepárí 100

	Rs.
Class III.—Every professional accountant; every auditor; every appraiser paid by fees; every surveyor; every mill-owner; and every person included in class II of the third schedule of Bengal Act IV of 1876,[a] not charged under class I above	50
Class IV.—Every manufacturer of aerated waters; every dealer in gold or silver, or old building materials; every stevedore; and every person included in class III of the third schedule of Bengal Act IV of 1876, not charged under class II above	25
Class V.—Every brazier; every coppersmith; every die-sinker; every engraver; every farrier; and every person included in class IV of the third schedule of Bengal Act IV of 1876[b]	12
Class VI.—Every person carrying on any trade, dealing or industry not charged under any of the foregoing classes.	First Grade, Rs. 5. Second Grade, Rs. 2. Third Grade, Re. 1.

ACT No. II OF 1878.

Received the Lieutenant-Governor's assent on the 5th of February 1878, and the Governor General's assent on the 25th idem.

An Act to extend the provisions of Bengal Act VII of 1873 (the Labour Districts Emigration Act) to the district of Chittagong and to the Chittagong Hill Tracts.

Preamble.

WHEREAS it is expedient to extend the provisions of Bengal Act VII of 1873[c] (the Labour Districts Emigration Act) to the district of Chittagong and to the Chittagong Hill Tracts; It is enacted as follows:—

Commencement.

1. This Act shall come into force from the date on which it may be published in the *Calcutta Gazette* with the assent of the Governor General.

Amendment of section 3 of Bengal Act VII of 1873.

2. For the third paragraph of section 3 of Bengal Act VII of 1873, the following shall be substituted:

[See *supra*, p. 809.]

Amendment of schedules C and D.

3. For the words "the districts of Assam, Káchár and Silhat," in schedules C and D of the said Act, the words "Assam, Káchár, Silhat, Chittagong and the Chittagong Hill Tracts," shall be substituted.

[a, b] See *supra*, p. 909. [c] See *supra*, p. 809.

4. The provisions of Part III of the said Act shall be deemed to extend to all labourers who at the time of the commencement of this Act shall be serving in the district of Chittagong or the Chittagong Hill Tracts in accordance with any contract to labour, provided that they have been conveyed to the said districts at the expense of their employers. Part III of Bengal Act VII of 1873 to extend to existing contracts.

ACT No. III OF 1878.

Received the Lieutenant-Governor's assent on the 25th of February 1878, and the Governor General's assent on the 26th of March 1878.

An Act to define and limit the powers of Settlement-officers with respect to enhancement of rent.

WHEREAS it is expedient to define and limit the powers of settlement-officers in the territories subject to the Lieutenant-Governor of Bengal in respect of the enhancement of rent; It is enacted as follows:— Preamble.

1. This Act shall come into force from the date on which it may be published in the *Calcutta Gazette* with the assent of the Governor General. Commencement.

2. No raiyat having a right of occupancy shall be liable to have the rent previously payable by him enhanced in the course of any settlement-proceedings under Regulation VII of 1822,[a] except on some one or more of the grounds specified in section 18 of Bengal Act VIII of 1869[b] or, where Act X of 1859[c] is still in force, in section 17 of the latter Act. Rent of raiyat having right of occupancy how to be enhanced by settlement-officer.

3. The following words shall be added to section 15 of Bengal Act VIII of 1869, and to section 14 of Act X of 1859:— Addition to section 15, Bengal Act VIII, 1869, and section 14, Act X, 1859.

[See *supra*, p. 605.]

4. A notice in writing served on an under-tenant or raiyat by, or by the authority of, a settlement-officer, calling on him to attend and sign the jamabandí, shall be deemed a notice within the meaning of section 14 of Bengal Act VIII of 1869, and section 13 of Act X of 1859: Notice to sign jamabandí shall be deemed notice of enhancement

Provided that it shall not be necessary to make personal service of such notice on each under-tenant or raiyat, but that service may be lawfully made through proclamation by beat of drum of a general notice addressed to all whom it may concern, and by affixing such general notice with a copy of the jamabandí, or of such part thereof as the Collector may think fit, at the mál-kachahrí of the village to which the jamabandí relates, or at some other conspicuous place therein.

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[a] See *supra*, vol. I, p. 178. [b] See *supra*, p. 602. [c] See *supra*, p. 356.

In case of enhancement, rent and grounds of enhancement to be specified in notice.

5. Whenever in any settlement-proceeding conducted and confirmed as aforesaid a higher rent than the rent previously paid has been recorded as demandable from any raiyat having a right of occupancy, the amount of such higher rent and the grounds of the enhancement shall be specified in any notice served upon the said raiyat under clause 1 of section 4, or in the jamabandí appended to any general notice served under clause 2 of section 4, as the case may be.

Application of Act.

6. The provisions of this Act shall apply to all settlement-proceedings under Regulation VII of 1822[a] which, after the commencement of this Act may be confirmed by the revenue-authorities mentioned in section 3, whether such proceedings shall have been commenced before or after the commencement of this Act.

ACT No. IV OF 1878.

Received the Lieutenant-Governor's assent on the 10th of April 1878, and the Governor General's assent on the 4th of May 1878.

An Act to amend Bengal Act V of 1866.

Preamble.

WHEREAS it is expedient to amend Bengal Act V of 1866;[b] It is enacted as follows:—

Addition to section 2 of Bengal Act V of 1866.

1. To section 2 of the said Act the following clauses shall be added:

[*See supra*, p. 544.]

Commencement.

2. This Act shall come into force from the date on which it may be published in the *Calcutta Gazette* with the assent of the Governor General.

ACT No. V OF 1878.

Received the Lieutenant-Governor's assent on the 10th of April 1878, and the Governor General's assent on the 16th of May 1878.

An Act to amend Bengal Act VII of 1876.

Preamble.

WHEREAS it is expedient to amend Bengal Act VII of 1876;[c] It is enacted as follows:—

Clause substituted in section 55 of Bengal Act VII of 1876.

1. For the first clause of section 55 of the said Act, the following shall be substituted:—

[See *supra*, p. 1120.]

Commencement.

2. This Act shall come into force from the date on which it may be published in the *Calcutta Gazette* with the assent of the Governor General.

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[a] See *supra*, vol. I, p. 178. [b] See *supra*, p. 544. [c] See *supra*, p. 1103.

ACT No. VI OF 1878.

Received the Lieutenant-Governor's assent on the 10th of April 1878, and the Governor General's assent on the 20th of June 1878.

An Act to provide for the cleansing and construction of Latrines in first class municipalities.

Preamble.

WHEREAS it is expedient that the Commissioners of first class municipalities under the Bengal Municipal Act, 1876,[a] should have power to levy fees for the cleansing of public and private latrines, and also to cause the construction of latrines within the limits of such municipalities; It is enacted as follows:—

Definition of "the Commissioners," and of "holding."

1. In this Act "the Commissioners" means the Commissioners of any first class municipality under the Bengal Municipal Act, 1876;

and "holding" means a holding as already ascertained for purposes of assessment under the said Act.

Lieutenant-Governor may publish order on recommendation of Commissioners.

2. The Lieutenant-Governor of Bengal may, on the recommendation of the Commissioners at a meeting, by an order published as prescribed in section 365 of the said Act, declare that, from a date to be specified in such order, the Commissioners will maintain an establishment for the cleansing of all public and private latrines within the limits of the municipality or any part thereof; and the Commissioners shall make suitable provision accordingly.

Commissioners may levy fees.

3. When such provision has been made, the Commissioners may, notwithstanding anything contained in section 77 of the said Act, levy fees, to be fixed on such scale, with reference to the annual value of holdings within the limits of the municipality or such part thereof as aforesaid, as the Lieutenant-Governor of Bengal may, on the recommendation of the Commissioners at a meeting from time to time direct;

but the fee shall not exceed three rupees per annum where the valuation of the holding amounts to, or is less than, twenty-five rupees;

and the fee on any one holding shall not exceed four hundred and eighty rupees:

Provided that if, on the commencement of this Act, the owners or occupiers of any holding are already under engagement to pay to the Commissioners an annual sum exceeding four hundred and eighty rupees for the cleansing of their premises, such sum or such other sum as may from time to time be agreed upon between them and the Commissioners, may be levied from them in accordance with the provisions of this Act.

Recovery of fees.

4. The said fee shall be payable by the occupier for the time being of the holding or by the owner thereof under section 5 of this Act, in quarterly

[a] See *supra*, p. 1008.

instalments, and shall be recoverable in the manner prescribed for the recovery of the rate on the value of holdings in the Bengal Municipal Act, 1876.[a]

Every instalment of the said fee shall be deemed to be due on the first day of the quarter in respect of which such instalment is payable.

The proceeds of the said fees shall be applied to the maintenance of the said establishment, and to the providing of public latrines, and generally to carrying out the provisions of this Act.

A list of the said fees, and of the persons liable to pay the same, shall be published once in every year as prescribed in section 365 of the Bengal Municipal Act, 1876.

When fee may be levied from owner, who may recover from occupier.

5. If any holding is occupied in severalty by more than one person, the Commissioners may levy the said fee from the owner of such holding, who may recover from each occupier such sum as shall bear to the entire amount of the fee so levied the same proportion as the value of the part of the holding in the occupation of such person bears to the entire value of such holding.

Owner may recover fees from occupier as rent.

6. Every owner who, under the provisions of the last preceding section, is entitled to recover any sum from the occupier of any part of a holding, shall have for the recovery of the said sum all such and the same remedies, powers, rights and authorities as if such sum were rent payable to him by the occupier in respect of such portion of the holding as may be in his occupation.

Commissioners may compound with occupier or owner of certain premises for fee.

7. The Commissioners, at their discretion, may compound, for any period not exceeding one year, with any occupier or owner as aforesaid of any railway-premises or of any premises used as a factory, dockyard, workshop, cooly-depôt, school, hospital, market, court-house or other similar place, for a certain sum to be paid by such occupier or owner in lieu of such fee.

Commissioners may levy rate per head.

8. The Commissioners may, in lieu of the aforesaid fee, levy a rate per head, to be fixed by the said Lieutenant-Governor, on the recommendation of the Commissioners at a meeting, on the number of persons living within, or habitually resorting to, any such railway-premises, factory, dockyard, workshop, cooly-depôt, school, hospital, market, court-house or other similar place.

Commissioners may reduce or remit fee.

9. The Commissioners may reduce the amount of a fee payable under this Act, or may remit the fee if in their opinion the levy of it would be productive of excessive hardship to the person liable to pay the same.

Penalty.

10. Whoever refuses to pay any fee or rate due under this Act, or, having compounded for the payment of a certain sum under section 7 of this Act, refuses to pay such sum, shall be liable, on conviction, to a fine not exceeding three times the amount payable by him, exclusive of the amount so payable.

Person liable to rate exempt

11. No person liable to pay a fee or rate under the provisions of this Act

[a] See *supra*, p. 1008.

shall be punished with fine for neglecting or refusing to keep his privy in a proper state under section 203 of the Bengal Municipal Act, 1876.[a]

from fine for neglect as to privy.

12. All servants of the Commissioners employed for the purposes of this Act may, within such hours as may be fixed by the Commissioners, enter on any premises of which the occupier or owner is liable to pay a fee or rate as aforesaid, and do all things necessary for the performance of their duties under this Act.

Powers of servants of Commissioners.

13. The Commissioners at a meeting may make an order requiring all nightmen within the limits of the municipality or any part thereof to take out licenses, and to be servants of the Commissioners for the purpose of removing offensive matter from premises within the said limits.

Commissioners may require nightmen to take out licenses.

The Commissioners at a meeting may grant such licenses subject to such conditions as they may think fit, and may impose fees in respect of the same.

Subject to the approval of the Local Government, the Commissioners may make rules consistent with this Act, to define the duties of such nightmen, and from time to time alter, add to or repeal, such rules; and any breach of such rules shall subject the offender to a forfeiture of his license and to a fine not exceeding twenty rupees.

14. If the Commissioners think that any latrine or additional or common latrine should be provided for any house or land within the limits of the municipality, the owners of such house or land shall, within fourteen days after notice in that behalf by the Commissioners, or within such longer time as the Commissioners may for special reasons allow, cause such latrine to be constructed in accordance with the requisition of such notice;

Commissioners may require latrine to be constructed, and in default may themselves construct.

and if such latrine is not constructed to the satisfaction of the Commissioners within such period, the Commissioners may cause the same to be constructed, and the expenses thereby incurred shall be paid by the owners, and shall be recoverable as provided in section 4 of this Act.

15. The Commissioners may, by a notice in writing, require the owner or occupier of any holding to furnish, within a time to be specified in the notice, a list of the number of persons residing in, or habitually resorting to, such holding.

Commissioners may require list of persons in holding.

16. Whoever, being the owner or occupier of any holding, fails to furnish such list within the time specified in such notice after being required in that behalf by the Commissioners, shall be liable to a fine not exceeding one hundred rupees.

Penalty.

17. This Act shall come into force from the date on which it may be published in the *Calcutta Gazette* with the assent of the Governor General.

Commencement.

18. This Act shall be read with, and taken as part of, the Bengal Municipal Act, 1876.[b]

Construction.

[a], [b] See *supra*, p. 1008.

ACT No. VII OF 1878.

Received the Lieutenant-Governor's assent on the 1st of May 1878, and the Governor General's assent on the 3rd of July 1878.

An Act to consolidate and amend the law relating to the Excise Revenue in the Presidency of Fort William in Bengal.

Preamble.

WHEREAS it is expedient to consolidate and amend the laws relating to the manufacture, sale and possession of exciseable articles, and to the collection of the revenue derived therefrom; It is enacted as follows:—

PART I.

PRELIMINARY.

Short title.

1. This Act may be cited as "The Bengal Excise Act, 1878:"

Extent.

2. It extends, save as is hereinafter expressly specified, to all the territories for the time being administered by the Lieutenant-Governor of Bengal,

Commencement.

and shall come into force from the date on which it may be published in the *Calcutta Gazette* with the assent of the Governor General.

Enactments repealed.

3. The enactments specified in the schedule hereto annexed are hereby repealed to the extent mentioned in the third column thereof.

This repeal shall not revive any office, authority or thing abolished by any such enactment, or affect the validity of anything done or suffered, or any right, title, obligation or liability accrued before the commencement of this Act.

And all rules prescribed, appointments made, powers conferred, licenses granted, and notifications published under any such enactment, and all other rules (if any) now in force and relating to the matters hereinafter dealt with, shall (so far as they are consistent with this Act) be deemed to have been respectively prescribed, made, conferred, granted and published hereunder.

And all references made to any such enactment shall, as far as may be practicable, be deemed to be made to this Act.

And all proceedings now pending, which may have been commenced under any such enactment, shall be deemed to be commenced under this Act.

Interpretation-clause.

4. In this Act—unless there be something repugnant in the subject or context—

"Board."

"Board" means the Board of Revenue for the Provinces for the time being administered by the Lieutenant-Governor of Bengal:

"Collector."

"Collector" includes also a Deputy Collector or other revenue-officer in independent charge of the district,

a Superintendent of Excise-revenue,

any covenanted or uncovenanted officer to whom the Collector may make

over, with the previous sanction of the Commissioner (as he is hereby empowered to do), any of his powers or duties under this Act:

"Commissioner" means the Commissioner of a Revenue Division: "Commissioner."

"exciseable article" includes spirituous and fermented liquors and intoxicating drugs as defined by this Act: "Exciseable article."

"fermented liquor" includes— "Fermented liquor."

malt-liquor of all kinds; tárí, fresh or fermented;

pachwáí, diluted or undiluted, and

any other intoxicating liquor which the Local Government may from time to time declare to be included in this definition:

"intoxicating drugs" include— "Intoxicating drugs."

gánja;

bháng or siddhí;

charas;

every preparation and admixture of any of the above;

any other intoxicating drug which the Local Government may from time to time declare to be included in this definition:

"Local Government" means the Lieutenant-Governor of Bengal for the time being, or the person acting in that capacity: "Local Government."

"section" means a section of this Act: "Section."

"spirituous liquor" includes any spirituous liquor imported into India or manufactured in India by any process of distillation: "Spirituous liquor."

"the town of Calcutta" includes all places within the local limits of the ordinary original civil jurisdiction of the High Court of Judicature at Fort William in Bengal. "The town of Calcutta."

For the purposes of this Act the town of Calcutta shall be deemed to be a separate district. Calcutta a separate district.

PART II.

Manufacture of Exciseable Articles.

5. No person shall manufacture any exciseable article, or cultivate plants from which intoxicating drugs are produced, without a license from the Collector. Manufacture and cultivation prohibited.

6. No person shall construct or work a brewery without a license from the Collector. Construction of brewery prohibited.

7. No person shall construct or work a distillery after the manner in which distilleries are constructed and worked in Europe without a license under the signature of the Collector of the district in which such distillery is situated, or, in case the distillery is within twenty miles of Calcutta, or such other distance less than twenty miles as may from time to time be prescribed by the European distilleries not to be constructed or worked without license.

Local Government, without a license under the signature of the Collector of Calcutta.

Board may make rules for European distilleries and breweries.

8. The Board may from time to time make rules relative to

the granting of licenses under the two last preceding sections,

the management of distilleries and breweries established under the said sections, and

the issue of spirituous and fermented liquors therefrom.

Collectors may establish Native distilleries for spirituous liquors.

9. The Collector, with the sanction of the Board, may

establish, at any place within his jurisdiction, a distillery in which spirituous liquors may be manufactured after Native processes,

from time to time fix limits within which no such liquors, unless manufactured at the said distillery, shall be introduced or sold without a pass from the Collector, and within which no stills shall be constructed or worked, or spirituous liquors manufactured, except at the said distillery,

discontinue any distillery so established, and permit the manufacture of such liquors in distilleries established under section 7.

Board may prescribe rules for Native distilleries.

10. The Board may from time to time make rules relative to

the management of distilleries established under the last preceding section,

the conditions on which spirituous liquors may be manufactured in the said distilleries, and

the issue of such liquors therefrom.

PART III.

Sale and Possession of Exciseable Articles.

Exciseable articles not to be sold without license.

11. No person shall sell any exciseable article without a license from the Collector.

Fee for wholesale license.

12. Persons taking out licenses for the wholesale vend of spirituous and fermented liquors shall pay, for every such license, such sum as the Board from time to time prescribes.

The license shall be current only in the district in which it is granted.

But travelling merchants may obtain, under such rules and restrictions as the Board from time to time may prescribe, a general license, authorizing them to sell by wholesale in any district which they may visit in the course of their travel, without taking out a fresh license for that district.

Fee for retail-license.

13. Persons taking out licenses for the retail-sale of exciseable articles, or for the establishment of outstills, and the sale of the liquor manufactured therein, shall pay for every such license such fee or duty as may from time to time be fixed with the sanction of the Board, or a fee or duty regulated in such manner and in accordance with such rules as the Board may prescribe;

and such fee or duty shall be specified in the license, and shall be payable at such periods as the Board may direct.

Local Government may suspend operation of provisions relating to tárí.

14. The Local Government may suspend the operation of all the provisions relating to tárí contained in this Act with respect to any district in which the consumption of tárí in a fermented state is inconsiderable; and thereupon tárí may be possessed and sold without license in any such district, notwithstanding anything contained in this Act.

Wholesale and retail-sale.

15. Unless the Board shall otherwise specially direct, the sale of any exciseable article in a larger quantity than is specified below shall be deemed to be a sale by wholesale, and the sale of any other quantity shall be deemed a retail-sale:—

spirituous or fermented liquors, two imperial gallons or twelve quart bottles;

tárí or pachwáí, twelve sers;

gánja, siddhí or bháng, or any preparation or admixture of the same, one quarter of a ser;

charas or any preparation or admixture of the same, five tolas weight.

No licensed wholesale-vendor shall sell by retail, and no licensed retail-vendor shall sell by wholesale.

Sale of assortment.

Under this section a sale of an assortment of spirituous or fermented liquors in the quantity specified above, or in less quantity, by a licensed wholesale-vendor, and a similar sale of such liquors in greater quantity than is specified above by a licensed retail-vendor, are prohibited.

The Board may by rule define what shall be held to be an assortment for the purposes of this section.

The Board may also determine what shall be a retail-sale of any article from time to time declared by the Local Government to be included in the definition of intoxicating drugs under this Act.

Restriction of sale of gánja and bháng.

16. No cultivator of the plants producing gánja or bháng shall sell such plants, or any gánja or bháng produced therefrom, to any one other than a person duly authorized to purchase the same by pass or license from the Collector.

Illegal possession.

17. No person, not being a licensed vendor, shall have in his possession a greater quantity of any exciseable article than that specified in section 15.

PART IV.

Duties.

Removal of spirituous liquor from distilleries.

18. No spirituous liquor shall be removed from any distillery, or the warehouses connected therewith, upon which duty has not been paid at the rate leviable under any Tariff Act for the time being in force, or until a bond has been executed for such duty.

For all spirituous liquor removed upon payment of duty or under bond, passes shall be issued by the Collector, which shall specify—

the quantity and description of the liquor.

the place of its destination,

the amount of the duty,

the person to whom it is consigned, and

whether the duty has been paid or secured by bond, and

the period for which the pass shall be current.

Spirituous liquors from foreign territory subject to duty.

19. Spirituous liquor manufactured at any place in India beyond the limits of British India shall, on passing the limits of the territories to which this Act applies, be charged with the duty prescribed for spirituous liquor in the last preceding section.

PART V.

Farm of Duties.

Collector, with sanction of Board, may farm out duties.

20. The Collector may, with the sanction of the Board, let in farm the duties leviable on the retail-sale of exciseable articles or any of them, in any district or division of a district.

Board may prescribe rules.

21. The Board may prescribe rules—

for the invitation and acceptance of tenders for such farms;

for the requisition of security for the due fulfilment of the engagements entered into by the farmers, and

as to the form and conditions of the lease.

Any breach of such conditions shall render the lease liable to annulment.

Farmer to make arrangements with local manufacturers and vendors.

22. When the duties leviable on any exciseable articles are let in farm, the farmer shall be at liberty to make his own arrangements with the manufacturers and vendors within the limits of his farm;

and all the fines hereinafter prescribed, for the unlawful manufacture, sale or possession of any such article, shall be incurred by all persons manufacturing, selling or possessing the same without license or authority from the farmer.

List of licenses to be filed.

23. Every such farmer shall file in the Collector's office a list of all the licenses granted by him, in such form as may be prescribed by the Board.

Restrictions as to grant of licenses.

The Collector may, with the sanction of the Board, before entering into engagements for any such farm, make such reservations or restrictions with respect to the grant of licenses as he thinks fit.

Lease may be cancelled.

24. The Collector may, with the sanction of the Board, cancel any lease granted under this Act; or may, within the period of the lease, impose any new restriction on the farmer.

Compensation

If a lease be cancelled for any cause other than a breach on the part of the

farmer of the conditions of the lease, or if any reservation or restriction with respect to the grant of licenses be imposed within the period of the lease, the farmer shall be entitled to receive such compensation for any loss which he sustains thereby as the Board thinks fit. to farmers in certain cases.

25. Every farmer of excise-revenue may use the same means and processes for the recovery of any arrear of fee or duty due to him from any authorized vendor, as may be lawfully used by zamíndárs and farmers of land for the recovery of arrears of rent due to them from their under-tenants. Recovery of arrears of fee or duty by farmers.

PART VI.

Licenses.

26. Every person taking out a license under this Act shall execute a counterpart-engagement in conformity with the tenor of the license, and shall give such security for the performance of his engagement, or make such deposit in lieu of security, as the Collector may require. Licensees to execute counterpart and furnish security.

27. Unless the Board shall otherwise specially direct, every license shall be granted for the term of one year, and if continued to the holder thereof, shall be formally renewed from year to year. Duration and renewal of license.

But every person holding a license, who may intend not to renew it, shall give notice of his intention to the Collector at least fifteen days before the year expires.

If such notice be not given, and the license be not recalled by the Collector, the license held, and engagement entered into, by every such person shall remain in force for such time as the Collector may think fit, as if the said license and engagement had been formally renewed.

28. The Board may regulate the form and conditions of all licenses granted under this Act. Board may regulate form of license.

29. The Collector may cancel any license granted under this Act, if the fee or duty therein specified be not duly paid, or in case of a violation of any other condition thereof, or of the holder being convicted of a non-bailable criminal offence; License may be cancelled or recalled in certain cases.

and in such cases the holder shall not be entitled to a refund of any fee or duty payable under the license which he may have paid to the Collector in advance.

If the Collector desires to recall a license for any cause other than those above specified, he shall give fifteen days' previous notice and remit a sum equal to the fee or duty for fifteen days, or, if notice be not given, shall make such further compensation for default of notice as the Commissioner or Board directs.

In all such cases any fee or duty already paid in advance shall be refunded.

Surrender of license.

30. Any licensed vendor may surrender his license on giving fifteen days' previous notice to the Collector, and paying a sum equal to the fee or duty for fifteen days in addition to the sum payable under the license.

PART VII.

Powers of Officers.

Collectors to have charge of excise-revenue.

31. The collection of the revenue arising from the manufacture and sale of exciseable articles shall be ordinarily under the charge of the district Collectors, who shall perform the duties connected therewith under the control and direction of the Commissioners and of the Board;

and all proceedings of the Collectors shall be subject, with or without appeal, to the revision of the Commissioners;

and all proceedings of the Collectors and Commissioners shall be similarly subject to the revision of the Board.

Local Government may appoint Superintendent of Excise.

32. The Local Government may appoint any person to be Superintendent of Excise Revenue or of any branch of excise-revenue in any district or place; and the person so appointed shall exercise, in such district or place, or with respect to such branch of excise-revenue, all the powers and authority conferred by this Act on the Collector, and the Collector shall cease to exercise such powers and authority in such district or place, or with respect to such branch of excise-revenue, during the continuance of such appointment.

Local Government may appoint Commissioners of Excise.

33. The Local Government may also appoint a Commissioner or Commissioners for the control and direction of the officers having charge of the excise-revenue in any district or districts; and when such appointment is made, the Commissioner of Excise shall exercise, within such district or districts, the powers and authority conferred by this Act on Commissioners of Revenue, and the Revenue Commissioner shall cease to exercise such powers and authority in such district or districts during the continuance of such appointment.

Collectors may appoint excise-officers.

34. Collectors may appoint such officers as are necessary for the collection of the excise-revenue and for the prevention of smuggling; and the officers so appointed shall, in addition to their ordinary designations, be styled excise-officers.

Board may regulate supply of tárí and intoxicating drugs to licensed vendors.

35. The Board may regulate the mode in which tárí shall be supplied to licensed vendors of the same; and may frame rules for the grant of licenses or passes to persons purchasing, transporting or storing gánja, bháng or siddhí, or charas for the supply of the licensed vendors of those drugs.

The Board may also place the cultivation, preparation and store of such drugs under such supervision as may be deemed necessary to secure the duty leviable thereon.

Recovery of arrears of fee or duty.

36. The Collector may recover any arrear of fee or duty due on account of any license granted under this Act,

or any arrear due from any farmer of excise-revenue,

by distress and sale of the moveable property of the person from whom the arrear is due, or of his surety, or by the process described in Bengal Act VII of 1868.[a]

Power of excise-officers to enter and inspect licensed dealer's shop.

37. The Collector may, by a warrant under his hand, authorize any excise-officer above the rank of a peon to enter and inspect at all times, by day or by night, and may similarly authorize any excise-officer to enter and inspect, at all times by day, the shop or premises in which any licensed manufacturer or retail-vendor carries on the manufacture of spirituous or fermented liquors, or the sale of exciseable articles.

Power to authorize arrest of persons carrying exciseable articles liable to confiscation.

38. The Collector may, by a warrant under his hand, authorize any excise-officer to stop and detain all persons carrying any exciseable articles liable to confiscation under section 75;

and any excise-officer so authorized may seize such articles, and arrest the person in possession of the same.

And to arrest unlicensed distillers, &c.

39. Any excise-officer above the rank of a peon may arrest any person having in his possession an unlicensed still, or any exciseable article liable to confiscation under section 75, or engaged in the unlawful manufacture or sale of such exciseable articles,

and may seize such still with all such articles, and the materials used in such manufacture.

And to search on information of illicit manufacture or possession.

40. Whenever any excise-officer above the rank of a peon has reason to believe, from information given by any person (which information shall be taken down in writing),

that any exciseable articles are unlawfully manufactured;

or that any exciseable articles, liable to confiscation under section 75, are kept or concealed in any house, boat or other place,

such officer may, but always in the presence of an officer of Police not being under the grade of a corporal or head constable, enter into any such house, boat or place;

and in case of resistance, may break open any door, and force and remove any other obstacle to such entry;

and may seize and carry away all stills and materials used in such manufacture and all such exciseable articles;

and may also arrest the occupier of the house, boat or place, with all other persons concerned in the manufacture of such articles, or in the keeping and concealing of the same.

[a] See *supra*, p. 582.

Officers of Police, Customs and Revenue Departments may be vested with same powers as excise-officers.

41. The Local Government may confer on the officers of the Police, Customs and Revenue Departments, or any of them, the powers given to excise-officers by the two last preceding sections with respect to the seizure of, and search for, exciseable articles and the arrest of persons in possession thereof.

All officers so empowered shall be deemed to be excise-officers within the meaning of this Act.

Similar powers to be exercised by Police-officers in Calcutta.

42. The said powers may, in the town of Calcutta, also be exercised by any Police-officers specially selected by the Commissioner of Police for such purpose;

and the powers which are conferred upon the Collector by this Act, as regards the issue of warrants directed to excise-officers, may also be exercised by the Commissioner of Police for the said town in respect of the issue of warrants directed to Police-officers selected as aforesaid;

provided that the Collector shall not issue a warrant directed to a Police-officer, nor shall the Commissioner of Police issue a warrant directed to an excise-officer.

Power to arrest persons drinking, and seize liquors drunk, on chemist's premises.

43. Any excise or Police-officer above the rank of peon or constable, who has reason to believe that any chemist, druggist, apothecary or keeper of a dispensary within the town or the suburbs of Calcutta, or in Howrah, allows, between sunset and sunrise, spirituous or fermented liquors which have not been *bonâ fide* medicated to be drunk on his business-premises by any person not employed in his business,

may enter upon such premises, and seize and carry away such liquors,

and, in case of resistance, break open any door and force and remove any other obstacle to such entry or seizure,

and arrest and detain the owner or occupier of the said premises, with all parties concerned in such unlawful drinking.

Report of arrest, seizure or search and taking person arrested to Magistrate.

44. Whenever an excise-officer makes any arrest, seizure or search under this Act, he shall, within twenty-four hours thereafter, make a full report of all the particulars of the same to his official superior, and, unless acting under the warrant of the Collector, shall carry the person arrested, or the article seized, with all convenient despatch, to a Magistrate, or, if the arrest, seizure or search has been made in the town of Calcutta, to a Presidency Magistrate.

Police-officer in Calcutta to report to Commissioner of Police.

45. Whenever any Police-officer in the town of Calcutta makes any arrest, seizure or search under this Act, he shall, within twenty-four hours thereafter, make a full report of all the particulars to the Commissioner of Police, and shall carry the person arrested, or the article seized, with all convenient despatch, to a Presidency Magistrate;

and the Commissioner of Police shall at once inform the Collector of the fact of the arrest or seizure, and of the circumstances of the case.

Collector may issue warrant of arrest in certain cases.

46. The Collector may issue his warrant for the arrest of any person whom he may have reason to believe, either from information in writing or from the proceedings in any other case, to be engaged in the unlawful sale of exciseable articles, or to have in his possession any such articles liable to confiscation under section 75.

Collector may issue search-warrant.

47. The Collector may issue his warrant for the search of any house, boat or other place in which he may have reason to believe that exciseable articles are unlawfully manufactured, or that any such articles liable to confiscation under this Act are kept or concealed.

Such warrant may be executed by any officer, not being under the rank of a corporal or head constable, in the manner prescribed in section 40.

Procedure after arrest or seizure.

48. Whenever any person is arrested, or any articles are seized, under the warrant of a Collector, the Collector, after such enquiry as he thinks necessary, shall send the person arrested or the article seized to a Magistrate, or, if the arrest or seizure has been made in the town of Calcutta, to a Presidency Magistrate, or shall order the immediate discharge of such person, or the release of such articles.

Cases in which summons to issue.

49. Every such Magistrate shall issue a summons requiring the attendance of the person accused in all cases other than those of persons sent in custody by a Collector or excise-officer.

Seizure and disposal of exciseable articles unlawfully sold.

50. Any exciseable articles sold in contravention of the provisions of this Act, or in breach of any of the conditions of a license granted under this Act, may be seized at the time of the sale and brought before every such Magistrate.

As soon as the case is adjudicated, they shall be restored to the person who may have purchased them or disposed of as the Magistrate may direct.

Search for articles concealed in zanáná.

51. Where there is ground to suspect that exciseable articles are unlawfully concealed in any zanáná, the officer charged with the execution of a warrant shall, except in the town of Calcutta, follow the provisions of sections 384, 385 and 386 of the Code of Criminal Procedure,[a] and, in the said town, the provisions of sections 164, 165 and 166 of the Presidency Magistrates' Act.

Police-officers to assist.

52. All Police-officers are required to aid excise-officers in the due execution of this Act, upon notice given or request made by such officers.

PART VIII.

PENALTIES.

For unlicensed manufacture or sale of exciseable articles.

53. Whoever manufactures or sells any exciseable article without a license shall be liable to a fine not exceeding five hundred rupees for every such manufacture or sale.

[a] Act No. X of 1872.

Nothing contained in the first clause of this section or in section 11 applies to the sale by licensed wholesale vendors of such small quantities of beer, wines or spirits as may appear to the Collector to be used only as samples;

or to the arrangements under which tárí is supplied to licensed retail-vendors or the sale of tárí, or any preparation of the same when supplied or used for the manufacture of gúr or molasses;

or to the sale of any imported spirituous or fermented liquors purchased by any person for his private use, and so disposed of upon such person quitting a station or after his decease.

Unlicensed cultivation of plants producing intoxicating drugs, and abetment of same.

54. Whoever, without a license from the Collector, cultivates plants from which intoxicating drugs are produced, or in any way promotes such illegal cultivation, shall be liable to a fine not exceeding five hundred rupees, and the plant so cultivated shall be liable to seizure and confiscation.

Constructing or working distillery or brewery without license.

55. Whoever constructs or works a distillery after the European method, or a brewery, without a license from the Collector, shall be liable for every such offence to a fine not exceeding one thousand rupees;

and all liquors manufactured at any such distillery or brewery, and all materials and implements collected for the purpose of such manufacture, shall be liable to confiscation.

Contravention of rules in respect of distillery or brewery.

56. Every proprietor or manager of a licensed distillery constructed and worked after the European method, or of a brewery, who wilfully contravenes any rule made by the Board under section 8, shall be liable for every such offence to a fine not exceeding two hundred rupees.

Illegal removal of spirituous or fermented liquors from European distillery or from brewery.

57. Whoever removes, or attempts to remove, from any licensed distillery constructed and worked after the European method, or from any brewery, any spirituous or fermented liquors upon which the duty has not been paid, or for the duty on which a bond has not been executed, or any such liquors for which the Collector has not issued a pass, or exceeding the quantity for which a pass has been issued, shall be liable for every such offence to a fine not exceeding one thousand rupees.

Illegal removal of spirituous liquors from Native distillery.

58. Whoever removes, or attempts to remove, any spirituous liquors from a distillery established under section 9 without a pass, or exceeding the quantity for which a pass has been issued,

or introduces, or attempts to introduce, for sale, any spirituous liquors manufactured at another place into the limits fixed for the consumption of such liquors manufactured at such distillery, without a special pass from the Collector,

shall be liable for every such offence to a fine not exceeding five hundred rupees.

Refusing to produce license on

59. Every manufacturer or vendor under this Act who fails to produce his license on the demand of any excise officer,

or who commits any act in breach of any of the conditions of his license not otherwise provided for in this Act,

or who wilfully contravenes any rule made by the Board under section 10, otherwise than as provided in the last preceding section,

shall be liable for every such offence to a fine not exceeding fifty rupees,

and such fine shall be recoverable from such manufacturer or vendor, notwithstanding that such breach may have been owing to the default or carelessness of the servant or other persons employed by him.

Penalty on demand of excise-officer, or for breach of license

60. Every licensed retail-vendor who sells by wholesale, and every licensed wholesale-vendor who makes a retail-sale, shall be liable for every such offence to a fine not exceeding two hundred rupees.

Nothing contained in the first clause of this section shall be held to prohibit the grant to the same person of both wholesale and retail-licenses, subject to the provisions of this Act.

On retail-vendor for selling wholesale, and on wholesale-vendor for selling by retail.

61. Any person other than a licensed manufacturer or vendor, or a person duly authorized to supply licensed vendors, having in his possession any greater quantity of any exciseable article or any preparation or admixture of the same, than the quantity specified for each article in section 15, without a pass from the Collector or other officer duly empowered in that behalf, shall be liable to a fine not exceeding five hundred rupees.

Possessing more of any exciseable article than is specified in section 15 without license or pass.

Nothing contained in the first clause of this section, or in section 17, applies to any imported exciseable article purchased by any person for his private use or consumption and not for sale.

62. The provisions of section 61, so far as they relate to the possession of fermented liquors, do not apply to the possession of tárí when supplied or used for the manufacture of gúr or molasses ;

and the provisions of the said section, so far as they relate to the possession of intoxicating drugs, do not apply to the possession of such drugs by any person duly authorized under this Act to cultivate the plants which produce these drugs.

Section 61 not to apply to tárí used in making sugar, nor to licensed cultivators.

63. But every such cultivator selling or parting with any such plant, or any preparation thereof, to any person other than a licensed vendor or person duly authorized to purchase the same by pass or license from the Collector, or failing to account for any quantity of such plant, or of any preparation thereof, which has been in his possession, shall be liable to a fine not exceeding five hundred rupees.

Penalty for transfer by cultivators to unlicensed person, or failure to account for stock of plant.

64. Any person who is found in possession of any spirituous liquors manufactured at any place in India beyond the limits of British India, without a pass from the Collector certifying the payment of the duty prescribed therefor under section 19, shall be liable to a fine not exceeding two hundred rupees.

For illegal possession of certain spirituous liquors.

For conniving at illicit manufacture or sale of exciseable articles.

65. Every proprietor, farmer, tahsíldár, gumáshta or other manager of land, who authorizes or connives at the manufacture or sale of any exciseable articles by any unlicensed person, shall be liable for every such offence to a fine not exceeding five hundred rupees.

On chemist, &c., allowing liquors to be drunk on premises.

66. Any chemist, druggist, apothecary or keeper of a dispensary within the town or the suburbs of Calcutta, or in Howrah, who shall, between sunset and sunrise, allow spirituous or fermented liquors which have not been *bonâ fide* medicated to be drunk on his business-premises by any person not employed in his business,

and any such person who shall, between sunset and sunrise, drink such liquors on such premises,

shall be liable to a fine not exceeding two hundred rupees, in addition to any other penalty to which he may be liable under this or any other Act.

For permitting drunkenness, &c., in shop.

67. Every licensed vendor who permits drunkenness, riot or gaming in his shop, or receives any wearing apparel or other effects in barter for any exciseable article, shall be liable for every such offence to a fine not exceeding two hundred rupees.

On Police-officer for not assisting excise-officer.

68. Any Police-officer who, without lawful excuse, neglects or refuses to assist an excise-officer on being required to do so shall be liable to a fine not exceeding five hundred rupees.

On excise-officer for vexatious search or seizure.

69. Any excise-officer who, without reasonable ground of suspicion, enters or searches or causes to be entered or searched, any house, boat or other place,

or vexatiously and unnecessarily seizes the property of any person on the pretence of seizing or searching for any exciseable article liable to confiscation under this Act,

or vexatiously and unnecessarily detains, searches or arrests any person,

shall be liable for every such offence to a fine not exceeding five hundred rupees.

On excise-officer for conniving at unlawful manufacture or sale.

70. Any excise-officer who connives at the unlawful manufacture or sale of exciseable articles,

and any officer invested with local jurisdiction who authorizes or connives at the establishment of any unlicensed shop for the sale of such articles in any place subject to his control,

shall be liable for every such offence to a fine not exceeding five hundred rupees.

On excise-officer for delay in reporting arrest, &c., or in bringing up person arrested.

71. Any excise or Police-officer who neglects to report the particulars of an arrest, seizure or search within twenty-four hours thereafter, or delays carrying to a Magistrate or to the Collector, as the case may be, any person arrested, or any illicit articles seized under this Act,

shall be liable for every such offence to a fine not exceeding two hundred rupees.

Adjudication of fines and seizures.

72. All fines prescribed for offences against the provisions of this Act, and all seizures of goods liable to confiscation under this Act, shall be adjudged by a Magistrate, and, in the town of Calcutta, by a Presidency Magistrate;

but no proceedings shall be taken by any such Magistrate after the expiration of six calendar months from the date of the commission of the offence.

All such fines and seizures shall be adjudged on the information of the Collector or any excise-officer; but such information shall not be necessary in the case of a complaint preferred under any of the five last preceding sections.

Penalty for contempt of Court.

73. The Collector, in respect of the duties to be performed by him under this Act, may punish any contempt committed in his presence in open Court by fine not exceeding two hundred rupees.

Punishment on second or subsequent conviction.

74. Whenever any person is convicted of an offence against the provisions of this Act, punishable with a fine of two hundred rupees or upwards, after having been previously convicted of a like offence, he shall be liable, in addition to the penalty attached to such offence, to imprisonment for a period not exceeding six months;

and a like punishment of imprisonment, not exceeding six months, shall be incurred, in addition to the punishment which may be inflicted for a first offence, upon every subsequent conviction after the second.

Imprisonment under this Act may be either simple or rigorous, as the Magistrate or Presidency Magistrate may direct.

Confiscation of exciseable articles.

75. Any exciseable article manufactured, or held in possession, in contravention of the provisions of this Act, and all the materials used, or intended to be used, in the manufacture of the same, shall be liable to seizure and confiscation by an officer duly empowered in that behalf.

When any articles liable to confiscation under this Act are seized, the vessels, packages and coverings in which they are contained, and the animals and conveyances used in carrying them, shall also be liable to seizure and confiscation.

Disposal of confiscated articles.

76. All confiscated articles shall be made over to the Collector for sale or disposal under such rules as the Board may prescribe.

Division of fine among persons instrumental in detection of offence, &c.

77. Whenever any fine is levied under this Act from a person convicted of the unlawful manufacture, sale, purchase or possession of any exciseable article,

or of the unlawful cultivation of plants from which intoxicating drugs are produced,

the Magistrate shall inform the Collector of such levy, and the Collector may, under such rules as the Board may prescribe, direct the amount of such fine to be divided, in such proportions as he may think fit, among any persons who were instrumental in the detection of the offence, the seizure of the articles in respect of which the offence was committed, or the capture of the offender;

and may award compensation thereout to any persons subjected to annoyance or injury by any proceedings under this Act.

Board may grant rewards.

78. The Board may, either before or after the adjudication of a case, grant such reward, not exceeding two hundred rupees, as to them may seem fit;

and may direct the same to be divided, in such proportions as they may think fit, between any persons who were instrumental in the detection of the offence, the seizure of the articles in respect of which the offence was committed, or the capture of the offender.

Disposal of fines.

79. The Board may appropriate any portion, not exceeding one-half, of the fines levied under this Act, the disposal of which is not specially provided for, for rewarding informers, or for compensating persons subjected to annoyance or injury by any proceedings under this Act.

PART IX.

Military Cantonments.

Manufacture and sale of exciseable articles in cantonments.

80. Within the limits of any military cantonment, and within a distance of two miles, or such other distance as the Local Government may in any case prescribe, from such limits, licenses for the manufacture and sale of exciseable articles shall not be granted, nor shall the duties leviable thereon be let in farm, otherwise than with the consent of the commanding officer; and upon the requisition of such officer, any license which has been granted, either by the Collector or by a farmer, within such limits or distance, shall be immediately withdrawn.

81. In all other respects the provisions of this Act shall have effect within such limits and distance as aforesaid:

Mode of making arrest or search within cantonments.

Provided that, when arrest or search is to be made within the limits of any cantonment, the Collector or other officer authorized to make arrest or search shall, whenever it may be practicable, give previous notice to the commanding officer, and in all other cases shall report the arrest or search to such commanding officer with as little delay as possible.

PART X.

Miscellaneous.

Power to exempt liquor from Act.

82. The Local Government may, within any specified district or tract of country, exempt any liquor from the provisions of this Act.

Appeals.

83. An appeal shall lie to the Commissioner against every order of a Collector under this Act, if presented to the Commissioner, or to the Collector for transmission to the Commissioner, within thirty days from the date of the order appealed against.

An appeal shall lie to the Board against every order of a Commissioner under this Act, if presented to the Board within 60 days from the date of the order appealed against:

Provided that it shall be discretional with the Board to receive appeals direct from orders passed by a Collector.

Local Government may assign to any municipality powers as to granting of licenses.

84. Notwithstanding anything contained in this or in any other Act, the Local Government may, with the sanction of the Governor General in Council, assign to the Corporation of the town of Calcutta or to any other municipality, such functions and powers as it shall think fit in respect to the granting, withholding and withdrawal of licenses for the sale of exciseable articles (being functions and powers which, but for such assignment, might legally be exercised by any officer of Government), to be exercised by such corporation or by such municipality within the limits of their respective jurisdictions under such conditions and subject to such rules as the Local Government may impose; and the Local Government may at any time withdraw and revoke any functions and powers which it has assigned under this section:

Provided that such functions and powers shall not be assigned as aforesaid without the consent of the said corporation or the municipality concerned:

Provided also that no such conditions or rules shall be imposed by the Local Government after such assignment has taken place without the consent of the said corporation or the municipality concerned.

Saving of Cantonment Act and Sea Customs Act.

85. Nothing contained in this Act shall be held to affect the provisions of Act XXII of 1864 (*an Act to make provision for the Administration of Military Cantonments*) or of the Sea Customs Act, 1878, or of Bengal Acts II[a] and IV[b] of 1866.

SCHEDULE.

(*See section 3*).

PART I.—ACTS OF THE GOVERNOR GENERAL IN COUNCIL.

Number and year.	Subject.	Extent of repeal.
Act XI of 1849 ...	For securing the Abkárí revenue of Calcutta.	So much as has not been repealed.
Act XXI of 1856 ...	To consolidate and amend the Abkárí law in Bengal.	So much as has not been repealed.

[a] See *supra*, 511.

[b] See *supra*, p. 526.

PART II.—ACTS OF THE LIEUTENANT-GOVERNOR OF BENGAL IN COUNCIL.

Number and year.	Subject.	Extent of repeal.
Act III of 1873	To amend Act XI of 1849 and Act XXI of 1856.	The whole.
Act I of 1874	To amend Act XXI of 1856 and Bengal Act II of 1866.	So far as it relates to Act XXI of 1856.
Act II of 1876	To amend Act XI of 1849, Act XXI of 1856 and Bengal Act IV of 1866.	So much as has not been repealed, except section 12.

ACT No. VIII OF 1878.

Received the Lieutenant-Governor's assent on the 10th of April 1878, and the Governor General's assent on the 15th of June 1878.

An Act for the regulation of the Rural Police in the districts of Hazáríbágh and Lohárdaga.

PART I.

PRELIMINARY.

Preamble. WHEREAS it is expedient to make provision for the appointment, dismissal, maintenance and duties of village-policemen and road-patrols in the districts of Hazáríbágh and Lohárdaga; It is enacted as follows:—

Short title. 1. This Act may be called the Hazáríbágh and Lohárdaga Rural Police Act:

Extent. It extends only to the districts of Hazáríbágh and Lohárdaga;

Commencement. and it shall come into force from the date on which it may be published in the *Calcutta Gazette* with the assent of the Governor General.

Interpretation-clause. 2. In this Act, unless there be something repugnant in the subject or context—

"Deputy Commissioner." "Deputy Commissioner" includes the Deputy Commissioner of the district and

any officer appointed by the Local Government to perform the functions of a Deputy Commissioner under this Act:

"Headman." "headman" means the person entrusted with collecting the village-rents, by whatever designation he may be called:

"road-patrol" includes ghátwáls, digwárs, and all other persons, by whatever name they may be called, who are engaged in the performance of the duties assigned by this Act to road-patrols: "Road-patrol."

"under-tenure" includes also jágír, khúr-o-posh, mukarrarí and thíka: "Under-tenure."

"village" includes a group of villages: "Village."

"village-policeman" includes chaukídárs, goraits and kotwárs: "Village-policeman."

"zamíndár" means the person whose name is registered in the general register of lands paying revenue directly to Government as the proprietor of an estate so paying revenue, or the person whose name is registered in the general register of revenue-free lands as proprietor of a revenue-free tenure. "Zamíndár."

PART II.

VILLAGE-POLICE.

3. The Deputy Commissioner shall determine the number of village-policemen to be appointed for each village within his district: provided that there shall be at least two village-policemen appointed for every village in which there are one hundred and fifty houses, and one additional village-policeman for every complete number of one hundred houses beyond such number of one hundred and fifty. Number of village-police to be determined by Deputy Commissioner.

4. Where there are fewer than seventy-five houses in a village, and some house in such village is situated within one mile of some house in another village, the Deputy Commissioner may join such villages together and appoint one village-policeman for two or more villages: provided that, where two or more villages are joined together, one village-policeman shall not have charge of more than one hundred and twenty-five houses. Joining of two or more villages under one village-policeman.

5. The Deputy Commissioner shall from time to time determine the monthly salaries of the village-policeman: Deputy Commissioner to determine salaries of village-policeman.

provided that such salaries shall not be less than two nor more than three rupees per mensem for each village-policeman:

provided also that in determining such salaries the Deputy Commissioner shall take into consideration the value of the chákarán lands (if any) held by a village-policeman.

6. Wherever any zamíndár or under-tenure holder holds subject to the condition, expressed or implied, of maintaining the village-police within his zamíndárí or under-tenure, he shall be liable to pay the amount determined by the Deputy Commissioner under the last preceding section. Land-holders liable to pay such salaries.

7. In cases other than those referred to in the last preceding section, the amount required for the salaries of the village-policemen, together with a sum, not exceeding fifteen per cent. of such amount, to provide for payment of the Salaries how raised in other cases.

expenses of collection and losses from the non-realization of sums from defaulters, shall be assessed on each village;

and all owners or occupiers of houses in any village, and every zamíndár or under-tenure-holder who has a bhandar or kachahrí for the collection of rent within the village, shall be liable to assessment for the purposes of this Act.

Method of assessment.

8. The amount payable by each village shall be fixed by the Deputy Commissioner, and thereupon the headman of such village shall prepare a list showing the amount payable monthly by each person liable to assessment in such village.

Such list, when sanctioned by the Deputy Commissioner, shall be published at some conspicuous place within the village, and shall remain in force until altered by the Deputy Commissioner:

provided that if the headman neglects to prepare the list within three months from the fixing by the Deputy Commissioner of the amount payable by the village, the Deputy Commissioner may cause such list to be prepared by such means as shall seem to him proper.

Nature and amount of assessment.

9. The amount at which each person is assessed under the last preceding section shall be fixed according to the circumstances and the property to be protected of such person:

provided that the amount to be assessed on any one person shall not exceed one rupee per mensem in the case of a zamíndár, under-tenure-holder or trader, nor eight annas per mensem in the case of an ordinary raiyat:

provided also that all persons who, in the opinion of the Deputy Commissioner, are too poor to pay half an anna per mensem, shall be exempted from assessment.

Alteration of assessment.

10. The Deputy Commissioner may from time to time alter the amount assessed on any village.

Notice of such alteration shall be given to the headman of the village before the month of Magh in the year preceding the year in which the alteration is to take effect.

When any such alteration is made, the headman shall prepare and submit revised lists of the sums payable by each person.

Power to confirm, amend or remit assessment.

11. Any person dissatisfied with the amount at which he has been assessed by the headman of his village may apply to the Deputy Commissioner, either orally or in writing, for a revision of the assessment, and the Deputy Commissioner may confirm, amend or remit the assessment.

Assessment payable monthly or quarterly in advance.

12. Every sum due under section 6 of this Act, and every assessment under section 7 of this Act, shall be paid by equal monthly or quarterly instalments, as may appear most convenient to the Deputy Commissioner; and the instalments on account of each month or quarter shall be due on the first day of such month or quarter.

Collection of assessment.

13. The headman of each village shall collect the assessment payable by each of the persons in such village, and shall grant receipts for the same, and shall pay thereout the salaries, month by month, of the village-policemen.

The Deputy Commissioner may permit the headman to retain a sum, not exceeding six per cent. of the amount collected by him, for repayment of the costs of such collection.

Application by village-policeman for payment of salary.

14. Whenever the salary due for any month is not paid in full to any village-policeman on or before the fifteenth day of the next succeeding month, such village-policeman may apply to the Deputy Commissioner, who shall thereupon issue a notice calling on the holder of the village, whether he be a zamíndár or an under-tenure-holder, to pay the said salary within fifteen days from the service of the notice, and, in default, may attach his zamíndárí or under-tenure, and retain possession of the same until the amount due has been recovered out of the income derivable therefrom.

Application for repayment of sums paid by zamíndár or under-tenure-holder.

15. When any zamíndár or under-tenure holder, other than those referred to in section 7 of this Act, has paid any arrears of salary due to any village-policeman under the last preceding section, he may apply to the Deputy Commissioner for the attachment and sale of the moveable property of any person in the village who has failed to pay the amount assessed on him.

Power to distrain for arrears.

16. The Deputy Commissioner shall thereupon issue a writing in the form in schedule A hereto annexed signed by him, authorizing the headman of the village, or such other person as may be therein named, to levy, by the distraint and sale of a sufficient portion of the moveable property of such defaulters, the amount of their respective arrears, together with sums equal to a proportionate share of the cost of the distraint and sale.

Manner of executing distress.

17. The person so authorized shall seize and keep in his own custody such portion of the moveable property of such defaulters as he shall deem sufficient, and shall make an inventory of all moveable property so seized, and shall at the same time give notice by beat of drum of the time and place where it shall be sold.

The time of sale shall not be less than five nor more than ten days from the time of the proclamation thereof.

Sale in execution of warrant.

18. If any defaulter does not, within the time specified in such notice, pay the amount payable by him, with his share of the costs, the moveable property distrained, or such portion of it as may be necessary, shall be sold by public outcry at the time and place specified, and the proceeds shall be applied in discharge of the amount so payable and the costs, and the surplus, if any, shall be returned to the owner of the distrained property.

The amount realized by the Deputy Commissioner under this section and the two last preceding sections, other than the costs, shall be paid to the zamíndár or under-tenure-holder referred to in section 15 of this Act.

Defaulter disputing liability may apply to Deputy Commissioner.

19. Whenever any person whose name has been included in any list of defaulters disputes his liability to pay the amount mentioned in such list, or any portion thereof, he may apply to the Deputy Commissioner either orally or in writing, stating the grounds of his objection, and the Deputy Commissioner shall examine his objection and pass such order thereon as to him shall seem proper.

Distress not to be levied after year.

20. No arrears of any assessment payable under this Act shall be levied by distress after the expiration of one year from the day on which the same shall have become due.

Irregularities not to avoid distress.

21. No distress levied under this Act shall be deemed unlawful, nor shall any party making the same be deemed a trespasser, on account of any defect or want of form in any list, assessment, notice, summons, power, writing, inventory or other proceeding relating thereto, nor shall such party be deemed a trespasser from the commencement on account of any irregularity afterwards committed by him;

but all persons aggrieved by such irregularities may recover full satisfaction for any special damage sustained by them in any Court of competent jurisdiction, subject to the provisions of section 34 of this Act.

Duties of village-policeman.

22. Every village-policeman appointed under this Act shall perform the following duties:—

1st—he shall give immediate information to the officer in charge of the Police-station within the limits of which the village of which he is village-policeman is situated of every unnatural, suspicious or sudden death which may occur, and of every offence specified in schedule B hereto annexed which may be committed within such village, and he shall further keep the Police informed of all disputes which are likely to lead to any riot or serious affray;

2nd—he shall arrest all proclaimed offenders and all persons whom he may find in the act of committing any offence specified in schedule B hereto annexed;

3rd—he shall observe, and from time to time report to the officer in charge of the Police-station within the jurisdiction of which such village may be situated, the movements of all bad characters in such village;

4th—he shall report to the officer in charge of such Police-station the arrival of suspicious characters in the neighbourhood;

5th—he shall present himself at such Police-station twice in each week if it be within two miles of such village, and, if it be more remote, once in each week or once in each fortnight, as the Deputy Commissioner may direct.

6th—he shall supply any local information which the Deputy Commissioner or any officer of Police may require;

7th—he shall obey the orders of the Deputy Commissioner in regard to keeping watch in the village and other matters connected with his duties as village-policeman.

Procedure on arrest by village-policeman.

23. Whenever a village-policeman arrests any person, he shall forthwith take the person so arrested to the Police-station within the jurisdiction of which the village of which he is village-policeman is situated: provided that if the arrest is made at night, such person shall be so taken as soon as convenient on the following morning.

PART III.

ROAD-PATROLS.

List to be prepared, of zamíndárs and under-tenure-holders liable for maintenance of road-patrols.

24. As soon as may be after the commencement of this Act, the Deputy Commissioner shall prepare a list showing what zamíndárs or under-tenure-holders within his district hold their tenures subject to a condition, expressed or implied, of protecting lines of roads or passes, and shall fix the number of road-patrols to be kept up for such roads or passes, and the salary to be paid monthly to each road-patrol: provided that such salary shall in no case be less than three nor more than five rupees per mensem.

Copy of entry to be given to each zamíndár or under-tenure-holder.

25. A copy of the entry in such list affecting him shall be given to each such zamíndár or under-tenure-holder.

If any zamíndár or under-tenure-holder is dissatisfied with such entry, he may appeal, within thirty days of the receipt of the copy of the entry, to the Commissioner, who shall pass such order as to him seems proper.

Zamíndárs and under-tenure-holders entitled to rent for land held by road-patrol in lieu of, or in addition to, salary.

26. When any land is held under any zamíndár or under-tenure-holder by any road-patrol in lieu of, or in addition to, his salary for the protection of any road or pass, the zamíndár or under-tenure-holder who is responsible for the protection of such road or pass shall, if assessed under section 24 of this Act, be entitled to receive rent for such land at the same rate as is paid for similar raiyatwárí land in the vicinity.

An order under the hand of the Deputy Commissioner in the form in schedule C hereto annexed shall be furnished to such zamíndár or under-tenure-holder.

Payments to whom to be made.

27. All zamíndárs and under-tenure-holders specified in the list mentioned in section 24 of this Act shall pay the amount entered therein against their names to the District Superintendent of Police monthly, who shall pay the same to the road-patrols to whom it may be due.

Procedure on default of payment.

28. If the amount due from any zamíndár or under-tenure-holder for any month is unpaid after the fifteenth day of the next succeeding month, the Deputy Commissioner shall issue a notice calling on the defaulting zamíndár or under-tenure-holder to pay the same, together with the costs of serving the notice, within fifteen days from the service of the notice.

Attachment of zamíndárí or tenure.

29. If the amount specified in the notice is not paid within fifteen days, the Deputy Commissioner may attach the holding of such zamíndár or under-tenure-holder, and retain possession of the same until such amount has been recovered out of the income derivable therefrom.

Duties of road-patrols.

30. Every road-patrol appointed under this Act shall perform the following duties :—

1st—he shall patrol the roads within his beat under instructions from the District Superintendent of Police, and shall protect all travellers passing along his beat;

2nd—he shall arrrest all proclaimed offenders, and all persons whom he may find in the act of committing any offence specified in schedule B hereto annexed;

3rd—he shall report to the officer in charge of the Police-station, within the jurisdiction of which his beat is situated, the movements of all bad or suspicious characters along his beat, as well as all unusual circumstances that come to his notice;

4th—he shall supply any local information which the Deputy Commissioner or any officer of Police may require.

PART IV.

MISCELLANEOUS.

Power to appoint and dismiss village-policeman or road-patrol.

31. Subject to the approval of the Deputy Commissioner, the District Superintendent of Police may appoint, and for any misconduct or neglect of duty may dismiss, any village-policeman or road-patrol.

Village-policeman and road-patrol not to withdraw from duties or resign without permission.

32. No village-policeman or road-patrol shall withdraw himself from the duties of his office without the express permission of the District Superintendent of Police or of some other officer duly authorized to grant such permission;

and no village-policeman or road-patrol shall resign his office without the permission of the said District Superintendent, unless he has given to his superior officer, at least two months previously, a written notice of his intention to resign.

Power to fine village-police-

33. Every village-policeman or road-patrol who is guilty of any wilful misconduct in his office or neglect of his duty, such misconduct or neglect not

being an offence within the meaning of the Indian Penal Code, and not being of so grave a character as, in the opinion of the District Superintendent of Police, to require his dismissal from his office, shall be liable, under the order of the District Superintendent, to a fine not exceeding one month's salary. man or road-patrol.

34. Every suit brought against the Deputy Commissioner or any of his officers, or against any person acting under his direction, for anything done or purporting to be done by them under this Act, shall be commenced within four months next after the accrual of the cause of action, and not afterwards. Limitation of suits against officers.

35. The Local Government may, if it thinks fit, appoint any officer to perform the functions of a Deputy Commissioner under this Act. Appointment of officer to perform functions of Deputy Commissioner.

36. Every notice under this Act shall be served either personally on the person to whom the notice is directed, or by affixing a true copy thereof on some conspicuous part of his dwelling-house or principal kachahrí within the district. Service of notices.

37. Nothing contained in this Act shall diminish or in any way affect any liability, duty or obligation of any zamíndár or other landholder, under any law for the time being in force, to report crimes or offences occurring within his estate or tenure. Saving of liability of zamíndár to report crimes.

SCHEDULE A *(see section 16).*

Form of Distraining Warrant.

Act VIII of 1878.

On behalf of of . Whereas the several persons named in the list at foot hereof have made default in payment of the sums in the said Act set opposite to their respective names, you are hereby authorized and required to levy, by distress and sale of a sufficient portion of the moveable property of the said defaulters, the said several sums set opposite to their respective names, together with additional sums by way of costs as set forth.

(*Sd.*)

Deputy Commissioner.

Name and description.	Amount.	When due.	Costs.	Total.

SCHEDULE B *(see sections 22 and 30).*

Offences to be reported, and for which Village-policeman or Road-patrol may arrest.

Murder, culpable homicide, rape, dacoity, robbery, theft, mischief by fire, house-breaking, counterfeiting coin, causing grievous hurt, riot and all attempts and preparations to commit, and abetments of, the said offences.

SCHEDULE C *(see section 26).*

Form of Transferring Order.

District of

I , Deputy Commissioner of , do by this order under my hand, made in persuance of Act VIII of 1878 of the Lieutenant-Governor of Bengal in Council, declare that zamíndár (*or* under-tenure-holder as the case may be) of is entitled to receive rent, at the same rate as is paid for similar raiyatwárí land in the vicinity, for the lands specified below and lately held by in consideration of his performing the duties of a road-patrol.

Specification of lands.

Village
Pargana
Boundaries
Area

(*Sd.*)
Deputy Commissioner.

day of *187*

ACT No. I OF 1879.

Received the Lieutenant-Governor's assent on the 14th of March 1878, and the Governor General's assent on the 22nd of January 1879.

An Act to amend the procedure in suits between Landlords and Tenants in Chutiá Nágpur.

Preamble. WHEREAS it is expedient to amend the procedure in suits between landlords and tenants in Chutiá Nágpur; It is enacted as follows:—

Short title. 1. This Act may be called "The Chutiá Nágpur Landlord and Tenant Procedure Act:"

It extends to the territories for the time being under the administration of the Commissioner of the division of Chutiá Nágpur, except the district of Mánbhúm and the Tributary Mahâls; Local extent.

And it shall come into force from the date on which it may be published in the *Calcutta Gazette* with the assent of the Governor General. Commencement.

2. In this Act, unless there be something repugnant in the subject or context— Interpretation-clause.

"civil jail" includes the civil jail of the district, and any place appointed by the Local Government for the confinement of prisoners under this Act: "Civil jail."

"the Commissioner" and "Judicial Commissioner" mean respectively the Commissioner and Judicial Commissioner of Chutiá Nágpur: "Commissioner" and "Judicial Commissioner."

"Deputy Collector" includes also an Assistant Commissioner: "Deputy Collector."

"Názir" means any officer of a Court authorized to serve or execute its process: "Názir."

"section" means a section of this Act. "Section."

3. On and from the commencement of this Act, the enactments specified in schedule A hereto annexed shall be repealed to the extent mentioned in the third column of the said schedule. Enactments repealed.

4. All suits or proceedings of the nature provided for by this Act, which, before the commencement of this Act, shall have been instituted before any Deputy Commissioner or other officer having jurisdiction under any enactment hereby repealed, shall be heard and decided, so far as may be, under this Act. Decision of suits instituted before commencement of Act.

5. Every raiyat is entitled to receive, from the person to whom the rent of the land held or cultivated by him is payable, a pattá containing the following particulars:— Raiyat entitled to pattá.

the quantity and boundaries of land; and where fields have been numbered in a Government-survey, the number of each field;

the amount of annual rent;

the instalments in which the same is to be paid;

any special conditions of the lease, and

(if the rent is payable wholly or partially in kind) the proportion or quantity of produce to be delivered, and the time and manner of delivery.

6. Every raiyat who has cultivated or held land for a period of twelve years has a right of occupancy in the land so cultivated or held by him, whether it be held under pattá or not, so long as he pays the rent payable on account of the same; but this rule does not apply to the classes of lands locally known as majhahas, mán or saika; nor to khámár, níjjot or sír-land belonging to the Right of occupancy of raiyat cultivating or holding land for twelve years.

proprietor of the estate or tenure, and let by him on lease for a term, or year by year.

The holding of the father, or other person from whom a raiyat inherits, shall be deemed to be the holding of the raiyat within the meaning of this section.

Saving of terms of written contracts.

7. Nothing contained in the last preceding section shall be held to affect the terms of any written contract for the cultivation of land entered into between a landholder and a raiyat when it contains any express stipulation contrary thereto.

Raiyats having rights of occupancy, entitled to pattás.

8. Raiyats having rights of occupancy are entitled to receive pattás at fair and equitable rates.

In case of dispute, the rate previously paid by the raiyat shall be deemed to be fair and equitable, unless the contrary be shown in an enquiry under section 24.

Pattás to which raiyats not having rights of occupancy are entitled.

9. Raiyats not having rights of occupancy are entitled to pattás only at such rates, and on such conditions, as may be agreed on between them and the persons to whom the rent is payable.

Person granting pattá entitled to counterpart-engagement.

10. Every person who grants a pattá is entitled to receive from the person to whom the pattá is granted a kabúliyat or counterpart-engagement in conformity with the terms of the pattá.

The tender to any raiyat of a pattá such as the raiyat is entitled to receive shall be held to entitle the person to whom the rent is payable to receive a kabúliyat from such raiyat.

Exactions in excess of rent or receipt withheld.

11. Every under-tenant or raiyat from whom any sum is exacted in excess of the rent specified in his pattá, or payable under this Act, whether as ábwáb or under any other pretext,

and every under-tenant, raiyat or cultivator from whom a receipt is withheld for any sum of money paid by him as rent,

shall be entitled to recover from the person receiving such rent damages not exceeding double the amount so exacted or paid.

Form of receipt.

12. Receipts for rent shall specify the year or years on account of which the rent is acknowledged to have been paid; and any refusal to make such specification shall be held to be a withholding of a receipt.

Under-tenant or raiyat may, after tender, &c., pay into Court, whether suit instituted or not, what he admits to be due to his zamíndár, &c.

13. If any under-tenant or raiyat shall, at the mál-kachahrí for the receipt of rents, or other place where the rents of the land held or cultivated by him are usually payable, tender payment of what he shall consider to be the full amount of rent due from him at the date of the tender to the zamíndár or other person in receipt of the rent of such land; and if the amount so tendered shall not be accepted, and a receipt in full forthwith granted, the under-tenant

or raiyat may, whether a suit shall have been instituted against him or not, within one month from the date of such tender, deposit such amount in the Court of the Deputy Commissioner having jurisdiction to entertain a suit for such rent, to the credit of the zamíndár or other person aforesaid;

and such deposit shall, so far as the under-tenant or raiyat, and all persons claiming through or under him are concerned, in all respects operate as, and have the full effect of, a payment then made by the under-tenant or raiyat of the amount deposited to the credit of such zamíndár or other person.

Proceedings on receipt of deposit and payment of same.

14. The Deputy Commissioner shall receive such deposit on the written application of the under-tenant or raiyat, or his agent; and on the under-tenant or raiyat, or his agent, making a declaration in the form, or as nearly as circumstances will admit in the form, set forth in schedule B hereto annexed, the Deputy Commissioner shall give a receipt for the same.

The Deputy Commissioner shall, within seven days from the date of the deposit, issue a notice to the person to whose credit it has been deposited, in the form set forth in schedule C hereto annexed.

If the person to whom such notice is issued, or his duly authorized agent, shall appear and apply that the money in deposit be paid to him, it shall be immediately made over to him.

Limitation of suit for rent due prior to deposit.

15. Whenever such deposit shall have been made, no suit shall be brought against the person making the same or his representatives, on account of any rent which accrued due prior to the date of the deposit, unless such suit be instituted within six months from the date of the service of the notice mentioned in the last preceding section.

Landholder not to compel attendance of tenant for adjustment of rent.

16. All zamíndárs and other landholders are prohibited from compelling the attendance of their tenants for the adjustment of their rents or for any other purpose, and from adopting any means of compulsion for enforcing payment of the rent due to them other than those authorized by this Act.

Damages for extorting payment of rent by duress.

17. If payment of rent, whether the same be legally due or not, is extorted from any under-tenant or raiyat by illegal confinement or other duress, such under-tenant or raiyat shall be entitled to recover such damages, not exceeding two hundred rupees, as may be deemed a reasonable compensation for the injury done him by such extortion.

An award of compensation under this section shall not bar or affect any penalty or punishment to which the person practising such extortion may be subject by law.

Dependent taluqdár, &c., when not liable to enhancement of rent.

18. No dependent taluqdár or other person possessing a permanent transferable interest in land, intermediate between the proprietor of an estate and the raiyats, who holds his taluq or tenure (otherwise than under a terminable lease) at a fixed rent which has not been changed from the time of the perma-

nent settlement, shall be liable to any enhancement of such rent, anything in section 51, Regulation VIII, 1793,[a] or in any other law to the contrary notwithstanding.

Enhancement of rent of bhúinhári and khúdkáti lands.

19. No tenant of lands known as bhúinhári or khúdkáti shall be liable to any enhancement of the rent previously paid by him for such lands, unless it be shown that the tenure has been created within twenty years before the institution of the suit to enhance the rent of the said lands;

and where enhancement of the rent of such tenure is decreed, the rent assessed shall not exceed one-half of the rent paid by an ordinary raiyat with a right of occupancy on the same class of land with similar advantages.

Enhancement of the rent of korkor, &c., lands.

20. No tenant of lands known as korkor, baíballá, khandwat, sajhwat, jálsásan and áriát shall be liable to any enhancement of rent except under the terms of a written contract, or in accordance with the general custom prevailing with respect to such lands in the village in which they are situated.

Procedure for enhancement of rent.

21. No other under-tenant or raiyat having a right of occupancy shall be liable to any enhancement of the rent previously paid by him otherwise than in the manner provided by the three next succeeding sections.

Petition to be made to Deputy Commissioner.

22. Any person wishing to enhance the rent previously paid to him by any such under-tenant or raiyat may present a petition to the Deputy Commissioner to assess the rent on the land in respect of which such enhancement is sought, and (if necessary) to measure the same.

Particulars to be specified.

23. Such petition shall specify—

the present rent of the under-tenant or raiyat against whom the application is made;

the general rate prevailing in the village for different classes of lands;

the date (as nearly as it can be ascertained) when the rate was last adjusted in the village;

the rate which the applicant desires to demand, and

the grounds on which he considers that he is entitled to enhancement.

The provisions of sections 49 and 50 shall apply to all such applications.

Procedure on receipt of petition.

24. On receipt of such petition the Deputy Commissioner shall forthwith give notice of the contents thereof to the under-tenant or raiyat holding the land in respect of which enhancement is sought, and may (if necessary) order the same to be measured, and may upon consideration of all the circumstances set forth in the petition, and after hearing any objection which may be advanced against the proposed enhancement by the said under-tenant or raiyat, fix such enhanced rent, or may otherwise alter or vary the rent for the said

[a] See *supra*, p. 19.

land as to him may seem fair and reasonable for such period, not being less than ten nor more than twenty years, as he may think fit;

and the rent so fixed or varied shall be payable by such under-tenant or raiyat from the commencement of the local year following the year in which the order is passed, and may be recovered in any suit preferred against him for arrears of the same:

Provided that nothing in this section shall be held to bar the right of such under-tenant or raiyat to claim at any time an abatement of the rent previously paid by him under the provisions of section 27.

Commutation of conditions or services to which lands may be subject.

25. When lands are held subject to any conditions or services other than or besides the payment of a rent in money, the tenant of such lands, or the person who has the right to receive the rents and services issuing from such lands, may apply in writing to the Deputy Commissioner for commutation of all such conditions or services.

Determination of rent payable in commutation.

26. The Deputy Commissioner shall thereupon cause a notice to be served on each of the persons who under the last preceding section would have a right to make such application, and shall fix a date for considering the same; and on such date, or any date thereafter to which the hearing may be postponed, shall proceed to enquire into the matter, and to determine the amount of rent which in his judgment is fairly and equitably payable in commutation of the conditions or services to which such lands may be subject.

Claim of abatement of rent.

27. Any under-tenant or raiyat having a right of occupancy and wishing to claim an abatement of the rent previously paid by him may present a petition to the Deputy Commissioner to assess the rent on the land in respect of which such abatement is sought, and (if necessary) to measure the same.

Such petition shall specify the particulars mentioned in section 23 and the grounds on which such under-tenant or raiyat considers that he is entitled to such abatement.

The provisions of sections 49 and 50 shall apply to all such applications.

Procedure on claim of abatement of rent.

28. On receipt of such petition the Deputy Commissioner shall forthwith give notice of the contents thereof to the person to whom the rent of such under-tenant or raiyat is payable, and may (if necessary) order the land to be measured, and may proceed as prescribed by section 24 to fix such abatement of rent, or may otherwise alter or vary the rent for the land of such under-tenant or raiyat as to him may seem fair and reasonable, for such period, not being less than ten nor more than twenty years, as he may think fit;

and the rent so fixed or varied shall be payable by such under-tenant or raiyat from the commencement of the local year following the year in which the order is passed, and may be recovered in any suit preferred against him for arrears of the same:

Provided that nothing in this section shall be held to bar the right of the person to whom the rent of such under-tenant or raiyat is payable to claim at any time an enhancement of the rent of such under-tenant or raiyat under the provisions of section 22.

Relinquishment of land by raiyat after notice given.

29. Any raiyat may relinquish the land held or cultivated by him, provided he gives notice of his intention in writing to the person entitled to the rent of the land, or his authorized agent, in or before the month of Paush of the year preceding that in which the relinquishment is to have effect.

If he fails to give such notice, and the land is not let to any other person, he shall continue liable for the rent of the land.

If the person entitled to the rent of the land, or his agent, refuses to receive any such notice and to sign a receipt for the same, the raiyat may make an application to the Deputy Commissioner, who shall thereupon cause the notice to be served on such person or his agent.

What to be deemed arrear of rent under Act.

30. Any instalment of rent which is not paid on or before the day when the same is payable according to the pattá or engagement, or, if there is no written specification of the time of payment, at or before the time when such instalment is payable according to established usage, shall be held to be an arrear of rent under this Act, and in the absence of any written agreement to the contrary, shall be liable to interest at six per centum per annum.

Liability of raiyat to be ejected for arrear due.

31. When an arrear of rent remains due from any raiyat at the end of the Bengal or Sambat year, or at the end of the month of Jeth of the Fasli or Willáyatí year, as the case may be, such raiyat shall be liable to be ejected from the land in respect of which the arrear is due, but only in execution of a decree or order passed under the provisions of this Act.

Liability of farmer to have lease cancelled for arrear adjudged due.

32. When an arrear of rent is adjudged to be due from any farmer or other leaseholder not having a permanent or transferable interest in the land, the lease of such leaseholder shall be liable to be cancelled, and the leaseholder to be ejected:

Provided that no such lease shall be cancelled, nor the leaseholder ejected, otherwise than in execution of a decree or order under the provisions of this Act.

Measurement of lands.

33. Every proprietor of an estate or tenure, or other person in receipt of the rents of an estate or tenure, has a right to make a general survey or measurement of the lands comprised in such estate or tenure, unless restrained from doing so by express engagement with the occupants of the lands.

If any person intending to measure any land which he has a right to measure is opposed in making such measurement by the occupant of the land,

or if any under-tenant or raiyat, having received notice of the intended

measurement of land held or cultivated by him which is liable to such measurement, refuses to attend and point out such land,

such person may make application to the Deputy Commissioner, and the Deputy Commissioner shall thereupon proceed to enquire into the case in the manner provided for suits under this Act, and shall pass an order either allowing or disallowing the measurement, and, if the case so require, enjoining or excusing the attendance of any such under-tenant or raiyat.

If any under-tenant or raiyat, after the issue of an order enjoining his attendance, neglects to attend, it shall not be competent to him to contest the correctness of the measurement made in his absence.

Registration of transfers of taluqs, &c.

34. All dependent taluqdárs and other persons possessing a permanent heritable interest in land intermediate between the zamíndár and the cultivator are required to register, in the sarrishta of the zamíndár or superior tenant to whom the rents of their taluqs or tenures are payable, all transfers of such taluqs or tenures or portions of them, by succession or inheritance.

Every zamíndár or superior tenant is required to admit to registry and otherwise give effect to all such transfers.

Application for the registration of all such successions as may have occurred previously to the commencement of this Act shall be made within two years from the commencement thereof, and for future successions within one year from the date on which the succession occurred: and if such application be not made within the period herein specified, the zamíndár or superior tenant may apply to the Deputy Commissioner to put him in possession of the taluq or tenure.

On receipt of such application the Deputy Commissioner shall issue a notice to the taluqdár or tenure-holder in possession, requiring him to register the transfer within three months from the receipt of the notice, and, if he neglects or refuses so to register, the Deputy Commissioner may, on proof to his satisfaction being given of the service of the notice, put the zamíndár or superior tenant aforesaid in possession of the taluq or tenure.

Provisions applied to sale of under-tenures.

35. The provisions of the last preceding section shall also be applicable to the sale of such under-tenures as are mentioned in section 123, and to the sale of the right and title of any person under section 124.

Procedure on refusal to register.

36. If any zamíndár or superior tenant refuses to admit to registry or otherwise to give effect to any such transfer as is mentioned in the two last preceding sections, the transferee may make application to the Deputy Commissioner, and the Deputy Commissioner shall thereupon proceed to enquire into the case in the manner provided for suits under this Act, and, if no sufficient grounds are shown for the refusal, shall pass an order enjoining the zamíndár or superior tenant to admit to registry and otherwise give effect to such transfer:

Provided that no zamíndár or superior tenant shall be required to admit to registry or give effect to any division or distribution of the rent payable on account of any such tenures, nor shall any such division or distribution of rent be valid without the consent in writing of the zamíndár or superior tenant.

Cognizance of suits under Act.

37. (1) All suits for the delivery of pattás or kabúliyats, or for the determination of the rates of rent at which such pattás or kabúliyats are to be delivered;

(2) all suits for damages on account of the illegal exaction of rent or of any unauthorized cess or impost, or on account of the refusal of receipts for rent paid, or on account of the extortion of rent by confinement or other duress;

(3) all complaints of excessive demand of rent, and all claims to abatement of rent;

(4) all suits for arrears of rent due on account of land either rent-paying or rent-free, or on account of any rights of pasturage, forest-rights, fisheries or the like;

(5) all suits to eject any raiyat, or to cancel any lease on account of the non-payment of arrears of rent, or on account of a breach of the conditions of any contract by which a raiyat may be liable to ejectment, or a lease may be liable to be cancelled;

(6) all suits to recover the occupancy or possession of any land, farm or tenure from which a raiyat, farmer or tenant has been illegally ejected by the person entitled to receive rent for the same;

(7) all suits by zamíndárs and others in receipt of the rent of land, against any agents employed by them in the management of land or collection of rents, or the sureties of such agents, for money received or accounts kept by such agents in the course of such employment, or for papers in their possession,

shall be cognizable by the Deputy Commissioners, and shall be instituted and tried under the provisions of this Act, and shall not be cognizable in any other Court, except in the way of appeal as provided in this Act.

Power to refer to arbitration.

38. The Deputy Commissioner may, with the consent of the parties, refer any suit under this Act to arbitration, and the provisions of sections 506 to 522 (both inclusive) of the Code of Civil Procedure shall, as far as may be practicable, apply to such references.

Suit may be brought by or against raiyats collectively.

39. In every suit under this Act, of the nature of those specified in the first, second, third or fourth clauses of section 37, and in applications for enhancement, abatement or measurement under sections 22, 27 or 33, any number of raiyats or other tenants may sue or be sued collectively, and it shall be no ground for dismissing the suit or refusing to hear the application that such raiyats or other tenants are wrongly joined as plaintiffs or defendants, provided that all such raiyats or other tenants hold land in the same village;

but no order shall be passed in such case unless the officer making the same is satisfied that all parties have had an opportunity to appear and make objection to any claims preferred against them;

and if, at any time it shall appear to the Deputy Commissioner that the question between any two of the parties, of whom one is so joined with others, cannot conveniently be so jointly tried, the Deputy Commissioner may order a separate trial to be held.

Order to specify how far it applies to each raiyat.

40. Every order passed in any such case as is mentioned in the first clause of the last preceding section shall specify the extent to which each of the raiyats or other tenants named in the order shall be affected thereby.

Suits by or against sarbarákárs or tahsíldárs of estates held khás.

41. All suits which under this Act may be brought by or against zamíndárs or other persons in the receipt of the rent of land may be brought by or against sarbarákárs or tahsíldárs of estates held under khás management, whether such estates are the property of Government or of individuals.

General rule for limitation of suits.

42. Except as otherwise herein provided, all suits instituted under this Act shall be commenced within the period of 1 year from the date of the accruing of the cause of action.

Limitation of suits for grant of pattás, &c.

43. Suits for the delivery of pattás or kabúliyats, and for the determination of the rates of rent at which such pattás or kabúliyats are to be delivered, may be instituted at any time during the tenancy.

Limitation of suits for arrears of rent.

44. Suits for the recovery of arrears of rent shall be instituted within three years from the last day of the Bengal or Sambat year, or from the last day of the month of Jeth of the Faslí or Wiláyatí year, in which the arrear claimed shall have become due:

Provided that, if the suit be for the recovery of rent at a higher rate than was payable in the previous year, such rent not having been enhanced by the Deputy Commissioner under this Act, the suit shall be instituted within three months from the end of the Bengal or Sambat year, or of the month of Jeth of the Faslí or Wiláyatí year, on account of which such enhanced rent is claimed.

Limitation of suits against agents for money, papers or accounts.

45. Suits for the recovery of money in the hands of an agent, or for the delivery of accounts or papers by an agent, may be brought at any time during the agency, or within 1 year after the determination of the agency of such agent:

Provided that if the person having the right to sue shall, by means of fraud, have been kept from the knowledge of the receipt of any such money by the agent, or if any fraudulent account shall have been rendered by the agent, the suit may be brought within one year from the time when the fraud shall have been first known to such person; but no such suit shall in any case be brought at any time exceeding three years from the termination of the agency.

Mode of instituting suits. Form of statement of claim.

46. Suits under this Act shall be instituted by presenting to the Deputy Commissioner a plaint or statement of claim which shall contain

the name, description and place of abode of the plaintiff;

the name, description and place of abode of the defendant, so far as they can be ascertained;

the substance of the claim, and

the date of the cause of action.

Form of statement in suits for arrears of rent.

47. If the suit is for the recovery of an arrear of rent, the statement of claim shall specify

the name of the village and estate;

the name of the pargana or other local division in which the land is situated;

(if the arrear is alleged to be due from any raiyat) the quantity of land;

(where fields have been numbered in a Government-survey) the number of each field;

the yearly rent of the land;

the amount (if any) received on account of the year for which the claim is made;

the amount in arrear, and

the time in respect of which it is alleged to be due.

Statement in suits for ejectment or for recovery of occupancy or possession.

48. If the suit is for the ejectment of a raiyat, farmer or tenant from any land, farm or tenure, or for the recovery of the occupancy or possession of any land, farm or tenure, the statement of claim shall specify (as circumstances may require) the extent, situation and designation of the same, and (if necessary for the identification of the land) the boundaries of such land.

Statement by whom to be presented.

49. The statement of claim shall be presented by the plaintiff, or by an authorized agent of the plaintiff who has personal knowledge of the facts of the case, or by an agent who shall be accompanied by a person who has such knowledge.

Verification of statement.

50. The statement of claim shall be subscribed and verified at the foot by the plaintiff or his agent in the manner following, or to the like effect:—

"I, *A. B.*, do declare that the above statement is true to the best of my knowledge and belief."

Documentary evidence to be produced by plaintiff.

51. If the plaintiff relies in support of his claim on any document in his possession, he shall deliver the same to the Deputy Commissioner at the time of presenting his statement of claim.

Unless such document be delivered or its non-production be sufficiently excused, or unless the Deputy Commissioner see fit to extend the time for producing the same, it shall not afterwards be admitted.

Plaintiff may require production of document from defendant.

52. If the plaintiff requires the production of any document in the possession or power of the defendant, he may, at the time of presenting his statment of claim, deliver to the Deputy Commissioner a description of the document in order that the defendant may be required to produce the same.

Statement may be returned or allowed to be amended.

53. If the statement of claim does not contain the several particulars hereinbefore required to be specified therein, or is not subscribed and verified as hereinbefore required, the Deputy Commissioner may return the statement to the plaintiff, or, at his discretion, allow it to be amended.

Issue of summons; personal attendance of defendant may be required.

54. If the statement of claim is in proper form, the Deputy Commissioner, except as otherwise hereinafter specially provided, shall direct the issue of a summons to the defendant, and if the plaintiff requires the personal attendance of the defendant, and satisfies the Deputy Commissioner that such personal attendance is necessary, or the Deputy Commissioner of his own accord requires such personal attendance, the summons shall contain an order for the defendant to appear personally on a day to be specified in the summons; otherwise the summons shall order the defendant to appear personally or by an agent duly authorized on his behalf, who has personal knowledge of the subject, or who shall be accompanied by a person who has such personal knowledge.

Day to be specified in summons how fixed. Defendant to be ordered to produce documents and witnesses willing to attend without process.

55. The day to be specified in the summons shall be fixed with reference to the state of the file, and the distance that the defendant may be or be supposed to be at the time from the place where the Court is held, and the summons shall order the defendant to produce any document which he may have in his possession, of which the plaintiff demands inspection, or upon which the defendant may intend to rely in support of his defence.

It shall also enjoin him to bring with him his witnesses if they are willing to attend without issue of process, and shall be in the form contained in schedule D hereto annexed, or to the like effect.

Cost of serving summons or warrant to be deposited in Court.

56. The amount of the cost of serving the summons, or, if a warrant is issued as provided in the next succeeding section, of serving the warrant, shall in all cases be deposited in Court upon the same day or the day next following that on which the plaint or statement of claim is presented to the Deputy Commissioner.

If the said amount be not so deposited, the case shall not be brought on the file of suits; but in such case the plaintiff may present another plaint at any time within the period prescribed by this Act for the limitation of suits.

Warrant of arrest in what cases to be issued.

57. If in any suit against an under-tenant or raiyat for the recovery of an arrear of rent, or against an agent for the recovery of any money, papers or accounts, the plaintiff desires a warrant of arrest to be issued against the defendant, such defendant being resident within the district in which the suit

is instituted, he shall present with his statement of claim an application for the issue of such warrant.

When such application is presented, the Deputy Commissioner shall examine the plaintiff or his agent, according to the law for the time being in force for the examination of witnesses, and inspect the documents adduced by him in support of his claim, and if there be *primâ facie* grounds for believing the claim to be well-founded, and that, if a summons be issued, the defendant will abscond instead of appearing to answer the claim, the Deputy Commissioner may issue a warrant for the arrest of the defendant.

The Deputy Commissioner shall fix a reasonable time for the return of the the warrant, which shall be in the form contained in the schedule E hereto annexed, or to the like effect, and the officer entrusted with the service of the warrant shall at the time of arresting the defendant deliver to him a notice addressed to the defendant, which shall be in the form in the schedule F hereto annexed, or to the like effect, containing the particulars of the claim, and requiring the defendant, if he contest the claim, to bring with him any document upon which he may intend to rely in support of his defence.

But no such warrant shall be issued in a suit for arrears of rent due in respect of a dependent taluq or other transferable tenure which, as hereinafter provided, is liable to sale in execution of any decree which may be passed in the case.

Procedure after arrest of defendant.

58. If the defendant is arrested under the warrant of arrest, he shall be brought with all convenient speed before the Deputy Commissioner, and the Deputy Commissioner shall commit him to custody, unless he deposits in Court such sum as may be specified in the notice.

Procedure when defendant is brought before Deputy Commissioner under warrant.

59. When the defendant is brought before the Deputy Commissioner under warrant, the Deputy Commissioner shall with all convenient speed proceed to try the case in the manner hereinafter provided;

if the suit cannot be at once adjudicated, the Deputy Commissioner may, if he think fit, require the defendant to give security for his appearance whenever the same may be required at any time whilst the suit is pending, or until execution of the final decree which may be passed thereon, and may commit the defendant to the civil jail, to be there detained until he shall furnish such security or deposit such sum as the Deputy Commissioner shall order.

The security-bond shall be in the form contained in schedule G hereto annexed, or to the like effect.

Procedure if warrant of arrest cannot be served upon defendant.

60. If the defendant cannot be arrested under the warrant, the Deputy Commissioner, on the application of the plaintiff, shall either postpone the case, for such period as he may think proper, in order that the plaintiff may apply within the said period for another warrant to be issued for the arrest of

the defendant, or shall forthwith issue a proclamation, to be affixed to his own office and to the residence of the defendant, appointing a day for the hearing of the case, which shall not be less than ten days from the date of the publication of the notice at the residence of the defendant.

If the defendant appears in pursuance of the proclamation, he shall be dealt with as provided in the last preceding section.

Compensation for arrest applied for without reasonable cause.

61. If it appears to the Deputy Commissioner that the arrest of the defendant was applied for without reasonable cause, the Deputy Commissioner may in his decree award to the defendant such sum, not exceeding one hundred rupees, as he may deem a reasonable compensation for any injury or loss which the defendant may have sustained by reason of such arrest, or of his detention in jail during the pendency of the suit.

Consequence of neither party appearing on day of trial.

62. If on the day fixed by the summons or proclamation for the appearance of the defendant, or on any subsequent day to which the hearing of the case may be postponed prior to the recording of an issue for trial as hereinafter provided, neither of the parties appears in person or by an agent, the case shall be struck-off, with liberty to the plaintiff to bring a fresh suit, unless precluded by the provisions for the limitation of suits contained in this Act.

Procedure when defendant only appears, or if he admit claim.

63. If on any such day the defendant only appears, the Deputy Commissioner shall pass judgment against the plaintiff by default, unless the defendant admit the cause of action, in which case the Deputy Commissioner shall proceed to give judgment for the plaintiff upon such admission without costs:

provided that such judgment, if there be more than one defendant, shall be only against the defendant who makes the admission.

If plaintiff only appear, Deputy Commissioner may proceed *ex parte*.

64. If on any such day the plaintiff only appears, the Deputy Commissioner, upon proof that the summons or proclamation has been duly served according to the provisions of this Act, shall proceed to examine the plaintiff or his agent, and after considering the allegations of the plaintiff, and any documentary or oral evidence adduced by him, may either dismiss the case or postpone the hearing of it to a future day for the attendance of any witness the plaintiff may wish to call, or may pass judgment *ex parte* against the defendant.

If defendant appear on day to which case is postponed, Deputy Commissioner may allow him to be heard.

65. If the defendant appears on any subsequent day to which the hearing of the suit may be postponed under the last preceding section, the Deputy Commissioner may, upon such conditions, if any, as to costs or otherwise as he may think proper, allow the defendant to be heard in answer to the suit as if he had appeared on the day fixed for his attendance.

Revival,

66. No appeal shall lie from a judgment passed *ex parte* against a defend-

reversal and alteration of decrees *ex parte* or by default.

ant who has not appeared, or from a judgment against a plaintiff by default for non-appearance.

But in all such cases, if the party against whom judgment has been given appears, either in person or by agent, if a plaintiff within fifteen days from the date of the Deputy Commissioner's order, and if a defendant within fifteen days after any process for enforcing the judgment has been executed, or at any earlier period, and shows sufficient cause for his previous non-appearance, and satisfies the Deputy Commissioner that there has been a failure of justice, the Deputy Commissioner may, upon such terms and conditions as to costs or otherwise as he may think proper, revive the suit and alter or rescind the decree, according to the justice of the case.

But no decree shall be reversed or altered without previously summoning the opposite party to appear and be heard in support of it.

Order to set-aside judgment final, but rejection of application to set-aside appealable.

67. In all cases in which the Deputy Commissioner shall pass an order for setting-aside a judgment the order shall be final; but in all appealable cases in which the Deputy Commissioner shall reject the application, an appeal shall lie from the order of rejection to the tribunal to which the final decision in the suit would be appealable; provided that the appeal be preferred within the time allowed for an appeal from such final decision.

On appearance, parties to be examined by Deputy Commissioner and may cross-examine each other.

68. When both parties appear in person on the day named in the summons, or upon any subsequent day to which the hearing of the case may be adjourned for sufficient reason to be recorded by the Deputy Commissioner, the Deputy Commissioner shall proceed to examine them, and either party or his agent may cross-examine the other.

If either of the parties is not bound to attend personally, any agent by whom he shall appear, or any person who shall accompany such agent, shall be examined and cross-examined in like manner as the party himself would have been if he had attended personally.

At the time of examination the defendant, if he think fit, may file a written statement of his defence. Such statement shall be verified in the manner prescribed in section 50.

Conduct of examination.

69. The examination of the parties or their agents, or such other persons as aforesaid, shall be conducted according to the law for the time being in force for the examination of witnesses.

The substance of the examination shall be reduced to writing in the vernacular language of the Deputy Commissioner and filed with the record:

Provided that all examinations of parties and witnesses may be recorded in English, if the Deputy Commissioner be sufficiently acquainted with that language.

Witnesses may be examined.

70. If either of the parties brings forward a witness on the day aforesaid, the Deputy Commissioner may take the evidence of such witness.

Documentary evidence to be produced by defendant.

71. If the defendant relies on any document in support of his defence, he shall deliver the same into Court at the first hearing of the suit; and unless such document is so delivered in, or its non-production is sufficiently excused, or unless the Deputy Commissioner sees fit to extend the time for producing the same, it shall not afterwards be admitted.

After examination Deputy-Commissioner may make decree if no further evidence required.

72. If after the examination required by section 68, and also the examination of any witness who may attend to give evidence on behalf of either of the parties, and after a consideration of the documentary evidence adduced, a decree can be properly made without further evidence, the Deputy Commissioner shall make a decree accordingly.

Consequence of inability of agent to answer material question.

73. If, on such examination as aforesaid, the agent of either party is unable to answer any material question relating to the case, which the Deputy Commissioner is of opinion that the party whom he represents ought to answer, and is likely to be able to answer if interrogated in person, the Deputy Commissioner may postpone the hearing of the case to a future day, and direct that the party whose agent may have been unable to answer as aforesaid shall attend in person on such day;

and if the party so directed to attend fails to appear in person on the day appointed, the Deputy Commissioner may pass judgment as in case of default, or make such other order as he may deem proper under the circumstances of the case.

If necessary, Deputy Commissioner to record issue and to fix day for hearing further evidence.

74. If, on such examination as aforesaid, it appears that the parties are at issue on any question upon which it is necessary to hear further evidence, the Deputy Commissioner shall declare and record such issue, and shall fix a convenient day for the examination of witnesses and the trial of the suit; and the trial shall take place on that day, unless there be sufficient reason for adjourning it, which reason shall be recorded by the Deputy Commissioner.

Parties to produce witnesses on trial, or Deputy Commissioner on application to summon witness.

75. The parties shall bring forward their witnesses on the day of trial, and if either party requires assistance to procure the attendance of a witness on such day, either to give evidence or to produce a document, he shall apply to the Deputy Commissioner in sufficient time before the day fixed for the trial to enable the witness to be summoned to attend on that day; and the Deputy Commissioner shall issue a summons requiring such witness to attend.

Code of Civil Procedure applied to attendance, examination, &c.

76. The provisions of the Code of Civil Procedure relating to the attendance and examination of witnesses and the production of documents, and to the remuneration and punishment of witnesses, shall, so far as they are consistent with this Act, apply to all suits under this Act.

Consequence of parties not appearing on day fixed for trial of issue.

77. If on the day fixed for the trial of any issue neither of the parties appear, the case shall be struck-off under the conditions provided in section 62.

If on any such day one only of the parties appears, the issue may be tried and determined, in the absence of the other party, upon such proof as may be then before the Court.

Suits instituted or defended by náibs, gumáshtas, &c.

78. When suits under this Act are instituted or defended by náibs, gumáshtas or other persons employed in the collection of rent or management of land, in the name and on the behalf of the landholders by whom they are so employed, all the provisions of this Act by which the personal appearance or attendance of parties to a suit is or may be required shall be applicable to such náibs, gumáshtas or other persons; and anything which by this Act is required or permitted to be done by a party in person may be done by any such person as aforesaid.

Processes served on any such person shall be as effectual for all purposes in relation to the suit as if the same had been served on the landholder in person; and all the provisions of this Act relative to the service of processes on a party to the suit shall be applicable to the service of processes on such person.

Personal attendance when not required.

79. A plaintiff or defendant shall not be required to attend in person if of the female sex, and of a rank or class which, according to the custom and manners of the country, would render it improper for her to appear in public.

Employment of authorized agents or mukhtárs.

80. Any party to a suit may employ an authorized agent or mukhtár to conduct the case on his behalf, but the appointment of such agent or mukhtár shall not excuse the personal attendance of the plaintiff or defendant in cases where his personal attendance is required by the summons or any order of the Court.

Deputy Commissioner may grant time or adjourn hearing.

81. The Deputy Commissioner may in any case grant time to the plaintiff or defendant to proceed in the prosecution or defence respectively of a suit, and may also from time to time, in order to the production of further proof, or for other sufficient reason to be recorded by him, adjourn the hearing or further hearing of any case in such manner as to him may seem fit.

Deputy Commissioner may cause local enquiry to be made.

82. The Deputy Commissioner may at any stage of a suit cause a local enquiry and report respecting the matter in dispute to be made by any officer subordinate to him, or by any other officer of Government with the consent of the authority to whom such officer is subordinate, or may himself proceed to the spot and make such local enquiry in person.

The provisions of the law for the time being in force, relative to local enquiries by Amíns or Commissioners under orders of the civil Courts, shall apply to any local enquiry made by any officer under this section, and, so far

as they are applicable, to enquiries made by the Deputy Commissioner in person.

In the latter case the Deputy Commissioner, after completing the enquiry, shall record on the proceedings such observations as appear to him appropriate, and the observations so recorded shall be received as evidence in the suit.

Payment into Court by defendant after action brought.

83 The defendant in any suit under this Act may, if he has duly tendered the same to the plaintiff before the institution of the suit, pay into Court such sum of money as he may consider due to the plaintiff without paying in any costs incurred by the plaintiff up to the time of such payment, and such sum shall be immediately paid out of Court to the plaintiff.

Costs if plaintiff goes on and recovers no more.

If after such payment the plaintiff elects to proceed in the suit and ultimately recovers no further sum than shall have been paid into Court, the plaintiff shall be charged with the whole costs of the suit incurred by the defendant; but if the plaintiff ultimately recovers a further sum than shall have been paid into Court, the defendant shall be charged with the whole costs of the suit.

If no tender made, defendant may pay into Court what he admits with costs.

84. The defendant in any suit under this Act may, without having made any tender before action brought, pay into Court such sum of money as he may consider due to the plaintiff, together with the costs (to be fixed by the Court if necessary as upon a suit originally instituted for the amount so paid into Court) incurred by the plaintiff up to the time of such payment, and such sum shall immediately be paid out of Court to the plaintiff.

Costs if plaintiff goes on with suit.

If after such payment the plaintiff elects to proceed in the suit, and ultimately recovers no further sum than shall have been paid into Court, he shall be charged with all costs incurred by the defendant subsequently to such payment; but if the plaintiff ultimately recovers a further sum than shall have been paid into Court, the defendant shall be charged with costs as upon a suit originally instituted for the whole amount for which the plaintiff ultimately obtains a decree, but shall have credit thereout for the amount of costs paid into Court by him in the first instance.

No interest on deposits.

85. No interest shall be allowed to the plaintiff on any sum paid by the defendant into Court from the date of such payment, whether such sum be in full of his claim or fall short thereof.

If in suit for delivery of pattá parties do not agree as to time for which it is granted, Deputy Commissioner to fix time.

86. If on the trial of a suit for the delivery of a pattá instituted by a raiyat having a right of occupancy the parties do not agree as to the term for which the pattá is to be granted, the Deputy Commissioner shall fix such term as under the circumstances of the case he may think just and proper:

Provided that the term shall not in any case be longer than twenty years, and in estates not permanently settled, shall not extend beyond the period for which the proprietor of the estate has engaged with Government:

Provided also that if the defendant be a farmer or other person having only a temporary interest in the land, the term of the pattá shall not extend beyond the period of the continuance of such interest.

For cultivators not having a right of occupancy, the term of pattá shall be exclusively in the discretion of the person entitled to the rent of the land.

In actions for rent third person appearing as claimant, to be made party to suit.

87. When in any suit between a landholder and a raiyat or under-tenant under this Act the right to receive the rent of the land or tenure cultivated or held by the raiyat or under-tenant is disputed, and such right is claimed by or on behalf of a third person, on the ground that such third person, or a person through whom he claims, has actually and in good faith received and enjoyed such rent before and up to the time of the commencement of the suit, such third person shall be made a party to the suit, and the question of the actual receipt and enjoyment of the rent by such third person shall be enquired into, and the suit shall be decided according to the result of such enquiry:

Provided that the decision of the Deputy Commissioner shall not affect the right of either party, who may have a legal title to the rent of such land or tenure, to establish his title by suit in a civil Court, if instituted within one year from the date of the decision.

Suits for ejectment or cancelment of lease.

88. Any person desiring to eject a raiyat, or to cancel a lease on account of non-payment of arrears of rent, may sue for such ejectment or cancelment and for recovery of the arrear in the same action, or may adduce any unexecuted decree for arrears of rent as evidence of the existence of such arrears in a suit for such ejectment or cancelment.

In all cases of suits for the ejectment of a raiyat or the cancelment of a lease, the decree shall specify the amount of the arrear; and if such amount, together with interest and costs of suit, be paid into court within fifteen days from the date of the decree, execution shall be stayed.

Judgment how pronounced.

89. The Deputy Commissioner shall pronounce judgment in open Court. The judgment shall be written in the vernacular language of the Deputy Commissioner, and shall contain the reasons for the same, and shall be dated and signed by the Deputy Commissioner at the time when it is pronounced:

Provided that any judgment may be written in English, if the Deputy Commissioner be sufficiently acquainted with the English language.

When Court may award to plaintiff additional damages not exceeding 25 per cent.

90. In any suit for rent under this Act, if it appears to the Court that the defendant has, without reasonable or probable cause, neglected or refused to pay the amount due from him,

and that he has not, before the institution of the suit, tendered such amount to the plaintiff or his duly authorized agent, or, in case of refusal of the plaintiff or such agent to receive the amount tendered, has not deposited such

amount with the Deputy Commissioner before the institution of the suit in manner hereinbefore mentioned,

the Court may award to the plaintiff, in addition to the amount decreed for rent and costs, such damages, not exceeding twenty-five per centum on the amount of rent decreed, as the Court may think fit;

and such damages, if awarded, as well as the amount of rent and costs decreed in the suit, shall carry interest from the date of decree until payment thereof at such rate per centum as the Deputy Commissioner deems reasonable.

Court may award compensation, not exceeding 25 per cent. on amount sued for, to defendant improperly sued.

91. In any suit for rent under this Act, if it appears to the Court that the plaintiff has instituted the suit against the defendant without reasonable or probable cause,

or that the defendant, before the institution of the suit, duly deposited with the Deputy Commissioner in the manner hereinafter mentioned the full amount which the Court shall find to have been due to the plaintiff at the date of such deposit,

the Court may award to the defendant by way of compensation such sum, not exceeding twenty-five per centum on the whole amount claimed by the plaintiff, as the Court may think fit;

and such sum, with interest until payment thereof at such rate per centum as the Deputy Commissioner deems reasonable, shall be recoverable from the plaintiff in like manner as sums decreed to be paid by defendants under this Act.

If person required by decree refuse to grant pattá, Deputy Commissioner may do so.

92. When a decree is given for the delivery of a pattá, if the person required by the decree to grant such pattá refuses or delays to grant the same, the Deputy Commissioner may grant a pattá in conformity with the terms of the decree under his own hand and seal, and such pattá shall be of the same force and effect as if granted by the person aforesaid.

Refusal of person to execute kabúliyat as required by decree.

93. When a decree is given for the delivery of a kabúliyat, if the person required by the decree to execute such kabúliyat refuses to execute the same, the decree shall be evidence of the amount of rent claimable from such person, and a copy of the decree under the hand and seal of the Deputy Commissioner shall be of the same force and effect as a kabúliyat executed by the said person.

Mode of executing decree for ejectment or reinstatement of raiyat.

94. If the decree is for the ejectment of any raiyat from land occupied by him, or for the reinstatement of any raiyat in the occupancy of land from which he has been ejected, the decree shall be executed by giving the possession or occupancy of the land to the person entitled by the decree to such possession or occupancy.

Procedure in case of opposition to execution.

If any opposition is made to the execution of the order for giving such possession or occupancy by the party against whom the order is made, the Deputy Commissioner, in the exercise of his powers as a Magistrate, shall give effect to the same.

Mode of executing decree for cancelment of lease, or for ejectment or reinstatement of farmer or tenant.

95. If the decree is for the cancelment of any lease, or the ejectment of any farmer or other person (not being an actual cultivator), or for the reinstatement of any farmer or other such person in the possession of a farm or tenure from which he has been ejected, the decree shall be executed by proclaiming the substance of the decree to the cultivators or other occupants by beat of drum, or in such other manner as may be customary, and affixing the same in some conspicuous place within, or adjacent to, the farm or tenure.

When judgment-debtor may be detained or imprisoned without issue of execution.

96. If the decree is for arrears of rent, or for money, papers or accounts, and the defendant has been committed to jail, or appears pursuant to the conditions of any security-bond given under section 59, the Deputy Commissioner may order that he be detained in, or committed to, the civil jail, unless he immediately pay into Court the amount of the decree with costs, or otherwise comply with the terms of the decree.

Liability of surety on failure to deliver judgment-debtor into custody.

97. If the judgment-debtor has given security for his appearance, and is not present when judgment is pronounced, and the surety fails to deliver him into custody when required so to do, process of execution may be taken out against the surety in the same manner as if a decree for the amount due from the debtor had been passed against the surety.

If the decree is for the delivery of papers or accounts, and the defendant is not present when judgment is pronounced, and the surety fails to deliver him into custody when required so to do, execution may be taken out against the surety for the sum due under the bond in the same manner as if a decree for that sum had been passed against the surety.

Attachment before judgment.

98. The provisions relating to attachment before judgment, contained in the Code of Civil Procedure, are hereby extended to all suits under this Act.

Issue of process of execution.

99. Process of execution may be issued against either the person or the property of a judgment-debtor, but process shall not be issued simultaneously against both person and property.

Process of execution against the person or moveable property of a debtor shall be in the form contained in schedule H or I hereto annexed, or to the like effect.

Application for execution against moveable property.

100. Any moveable property required to be seized under an execution shall, if practicable, be described in a list to be furnished by the judgment-creditor, but if the creditor is unable to furnish such list, he may apply for a general attachment of the debtor's effects to the amount of the judgment and cost.

In either case the property to be seized shall be pointed out to the officer entrusted with the execution of the process by the creditor or his agent.

Duration of warrant.

101. Every warrant of execution shall bear date on the day on which it is signed by the Deputy Commissioner, and shall continue in force for such period as the Deputy Commissioner may direct, not being more than sixty days from such date.

Second and successive warrants.

102. Second and successive warrants of execution may be issued by order of the Deputy Commissioner on the application of the judgment-creditor, after the expiration of the period fixed for the continuance in force of a previous warrant.

After one year execution not to issue without notice.

103. Process of execution shall not be issued upon any judgment without previous notice to the party against whom execution is applied for, if, when application for the issue of the process is made, a period of more than one year shall have elapsed from the date of the judgment, or from the date of the last previous application for execution.

Bar to execution against representative without notice.

104. Execution on a judgment shall not issue against the heir or other representative of a deceased party without notice to such heir or other representative to appear and be heard.

No process of execution to issue three years after judgment.

105. No process of execution of any description whatsoever shall be issued on a judgment under this Act unless an application be made within three years from the date of such judgment.

Warrant against person.

106. If a warrant is issued for taking in execution the body of any person, the officer charged with the execution of the warrant shall bring him with all convenient speed before the Deputy Commissioner.

If such person does not then deposit in Court the full amount specified in the warrant, or make such arrangement for the payment of the same as shall be satisfactory to the judgment-creditor, or satisfy the Deputy Commissioner that he has no present means of paying the debt, the Deputy Commissioner shall send him to the civil jail, there to remain for such time as shall be directed by a warrant addressed to the keeper of the jail, unless he shall in the meantime pay the full amount for the payment of which he is liable under the decree:

Provided that no person shall be imprisoned in execution of a decree under this Act for a longer period than six months,

or for a longer period than six weeks, if the decree is for the payment of a sum of money not exceeding fifty rupees.

If arrest be for non-delivery of accounts.

If the decree against any person arrested under a warrant is for the delivery of papers or accounts, and the papers or accounts are not delivered by him when he is brought before the Deputy Commissioner, such person may be committed to the civil jail, there to remain for such time, not exceeding six months, as the Deputy Commissioner shall direct, unless he shall in the meantime deliver the papers or accounts according to the terms of the decree.

No second imprisonment under same judgment.

107. Any person once discharged from jail shall not be imprisoned a second time under the same judgment.

If the amount due under the decree does not exceed fifty rupees, the Deputy

Commissioner may declare such discharged person absolved from liability under that decree.

In other cases the discharge shall not extinguish the liability of the discharged person under the decree, or exempt property belonging to such person from attachment in execution of the same.

Diet-money to be deposited at time of issue of warrant.

108. Any person applying for a warrant of arrest under section 57, or suing out process of execution against the body of any person, shall deposit in Court, at the time of issue of the warrant, diet-money for thirty days at such rate as the Deputy Commissioner may direct.

Payment of diet-money in advance during imprisonment.

109. Payment of diet-money at the same rate shall be made previously to the commencement of each succeeding month of the imprisonment, in failure of which the party confined shall be discharged.

Diet-money to be costs in suit.

110. All diet-money spent in providing subsistence for any prisoner shall be added to the costs in the suit, and any diet-money not so spent shall be returned to the person who deposited the same.

List of property to be prepared and proclamation of sale to be published, &c.

111. In executing a writ of execution against the moveable property of a debtor liable under this Act, the officer charged with the execution of the writ shall prepare a list of the property pointed out by the judgment-creditor, and shall publish a proclamation specifying the day upon which the sale is intended to be held, together with a copy of the said list, at the intended place of sale and at the residence of the debtor.

A copy of the said proclamation and list shall be transmitted to the Deputy Commissioner and shall be affixed in his office.

Until the day of sale, the said property shall remain in the custody of the officer attaching the same.

Place and manner of sale of property.

112. The sale shall be held at the place where the property is deposited, or at the nearest ganj, bázár, hát or other place of public resort, if the officer holding the sale is of opinion that it is likely to sell there to better advantage.

The property shall be sold by public auction, in one or more lots as the officer holding the sale may think advisable; and if the judgment-debt with the costs of the execution and sale is satisfied by the sale of a portion of the property, the execution shall be immediately withdrawn with respect to the remainder.

If fair price be not offered, sale may be postponed, and shall be then completed at any offer.

113. If on the property being put up for sale a fair price, in the estimation of the officer holding the sale, is not offered for it, and the owner of the property or some person authorized to act on his behalf, applies to have the sale postponed until the next day, or the next market-day, if a market be held at the place of sale, the sale shall be postponed until such day, and shall be then completed at whatever price may be offered for the property.

Payment of

114. The price of every lot shall be paid for in ready money at the time of

sale, or as soon after as the officer holding the sale shall think necessary; and in default of such payment, the property shall be put up again and sold. purchase-money.

When the purchase-money has been paid in full, the officer holding the sale shall give the purchaser a certificate describing the property purchased by him and the price paid.

115. From the proceeds of the sale of the property, the officer holding the sale shall make a deduction, at the rate of one anna in the rupee, on account of the costs of the sale, and shall transmit the amount to the Deputy Commissioner in order that it may be credited to Government. Proceeds of sale.

The said officer shall then pay to the judgment-creditor the expenses incurred by the judgment-creditor on account of the preparation of the list, and of the publication of the proclamation of sale prescribed in section 111, to such amount as, after examination of the statement of expenses furnished by the judgment-creditor, he thinks proper to allow.

The remainder shall be applied to the discharge of the debt for which the sale was made, with interest thereon up to the day of sale, and if there be any surplus, it shall be delivered to the person whose property has been sold.

116. Officers holding sales of property under this Act, and all persons employed by, or subordinate to, such officers, are prohibited from purchasing either directly or indirectly any property sold by such officers. Officers prohibited from purchasing.

117. No sale of any moveable property taken in execution shall be made until after the end of ten days next following the day on which such property may have been so taken. Sale of moveable property taken in execution.

118. If before the day fixed for the sale a third party appears before the Deputy Commissioner and claims a right or interest in any of the moveable property taken in execution, the Deputy Commissioner shall examine such party or his agent according to the law for the time being in force relating to the examination of witnesses, and, if he see sufficient reason for so doing, may stay the sale of such property. Deputy Commissioner may stay sale of moveable property seized if third party claim interest therein.

119. The Deputy Commissioner shall adjudicate upon such claim, and make such order between the claimant and the plaintiff and defendant in the original suit as shall to him seem fit. Deputy Commissioner to adjudicate claims.

In trying such claim the Deputy Commissioner shall be guided by the provisions of this Act, so far as they may be applicable.

120. If the claimant fails to establish his right to the property taken in execution, the Deputy Commissioner at the time of disposing of the case may award to the judgment-creditor against such claimant, as part of the costs, such sum as he may consider sufficient to cover any loss of interest or damage which the judgment-creditor may have sustained by reason of the postponement of the sale of the property. Claimant failing to establish right, liable to compensate judgment-creditor.

No appeal from order of Deputy Commissioner under sections 119, 120.

121. No appeal shall lie from any order passed by the Deputy Commissioner under the last two preceding sections.

But the party against whom the same may be given shall be at liberty to bring a suit in the civil Court to establish his right at any time within one year from the date of the order:

provided that, if the order be for the sale of the property, the suit shall not be for the recovery of the property, but for damages against the judgment-creditor by whom the property was brought to sale.

Sale not vitiated by irregularity in publishing or conducting same.

122. No irregularity in publishing or conducting a sale of moveable property under an execution shall vitiate such sale; but nothing contained in this section shall be held to deprive any person who may sustain damage by reason of such irregularity from recovering such damage by action in the civil Court; provided such action be brought within one year from the date of sale.

Sale of transferable tenures in execution of decrees for arrears of rent.

123. If the decree is for an arrear of rent due in respect of an under-tenure, which, by the title-deeds or the custom of the country, is transferable by sale, the judgment-creditor may make application for the sale of the tenure, and, with the sanction of the Commissioner, but not otherwise, the tenure may thereupon be brought to sale in execution of the decree, according to the provisions for the sale of under-tenures contained in Bengal Act VIII of 1865.[a]

But no such application shall be received when a warrant of execution has been previously issued against the person or moveable property of the judgment-debtor so long as such warrant remains in force.

If after sale of an under-tenure any portion of the amount decreed remains due, process may be applied for against any other property, moveable or immoveable, belonging to the debtor, and any such immoveable property may be brought to sale in the manner provided in section 129.

Under-tenure held conditionally on survival of heirs male not saleable.

124. No under-tenure which is held conditionally on the survival of heirs male of the grantee, and which on failure of such heirs reverts to the grantor free of all encumbrances made subsequent to the date of the grant, shall be sold under this Act:

Provided that the right and title of any person in such tenure may be sold with the sanction of the Commissioner.

If third party claim to be lawful possessor of under-tenure, Deputy Commissioner to stay sale and ad-

125. If before the day fixed for the sale of any such under-tenure as is mentioned in section 123, or of the right and title of any person in an under-tenure of the nature described in section 124,

a third party appears before the Deputy Commissioner, and alleges that such third party, and not the person against whom the decree has been

[a] See *supra*, p. 507.

obtained, is the proprietor of such under-tenure, and was in lawful possession of the same at the time when such decree was obtained, judicate upon claim.

the Deputy Commissioner shall examine such party in the manner provided in section 118; and if he sees sufficient reason for so doing, and such party deposits in Court the amount of the decree, or gives sufficient security for the same, the Deputy Commissioner shall stay the sale and proceed to enquire into and adjudicate upon the claim:

Provided that no transfer of an under-tenure which by the provisions of this Act or any other law for the time being in force is required to be registered in the sarrishta of the zamíndár or superior tenant shall be recognized unless it has been so registered, or unless sufficient cause for non-registration is shown to the satisfaction of the Deputy Commissioner.

Mode of adjudicating claims.

126. In trying such claim the Deputy Commissioner shall be guided by the provisions of this Act, so far as the same may be applicable, and the judgment passed by the Deputy Commissioner on such claim shall not be subject to appeal, but the party against whom it is given may bring a suit in the civil Court to establish his right at any time within one year from the date of the judgment.

Execution of decrees given in favour of sharers in undivided estates or tenures.

127. If a decree is given in favour of a sharer in a joint undivided estate, dependent taluq or other similar tenure, for money due to him on account of his share of the rent of an under-tenure situate in such undivided estate, taluq or tenure, application for the sale of such under-tenure shall not be received unless execution shall have been first taken out against any moveable property which the judgment-debtor may possess within the district in which the suit was instituted, and the sale of such property, if any, shall have proved insufficient to satisfy the judgment.

In such case the under-tenure, if of the nature described in section 123, and not of the nature described in section 124, may, with the sanction of the Commissioner, but not otherwise, be brought to sale in execution of the decree in the same manner as any other immoveable property may be sold in execution of a decree for money under the provisions of the next two succeeding sections.

Execution against immoveable property in certain cases, if judgment not satisfied by sale of moveables.

128. In the execution of any decree for the payment of money under this Act, not being money due as arrears of rent of a saleable under-tenure, or of a tenure the right and title in which is saleable, if satisfaction of the judgment cannot be obtained by execution against the person or moveable property of the debtor within the district in which the suit was instituted, the judgment-creditor may apply for execution against any immoveable property belonging to such debtor, and such immoveable property may, with the sanction of the Commissioner, but not

otherwise, be brought to sale in the manner described in the next succeeding section.

Mode of executing process if immoveable property be building.

129. If the immoveable property against which execution is applied for is a house or other building, process shall be issued in the same manner as for the attachment and sale of moveable property, and the provisions of sections 111 to 117 (both inclusive) shall, so far as may be practicable, be applicable to the execution of such process.

If it be saleable under-tenure.

If the property is a saleable under-tenure, it shall be sold under the provisions of the law for the time being in force in the Lower Provinces of Bengal applicable to the sale of such under-tenures for demands other than those of arrears of rent due in respect thereof.

If it be an estate or share of an estate.

If the property is an estate, or a share of an estate, it shall be sold under the provisions of the law for the time being in force in the Lower Provinces of Bengal applicable to the sale of estates for the recovery of demands recoverable by the same process as arrears of land-revenue.

Consequence of objection offered before sale of immoveable property.

130. If, before the day fixed for the sale of any immoveable property as aforesaid objection is offered to the sale on the ground of such property not belonging to the judgment-debtor, the Deputy Commissioner shall examine the party making the objection in the manner prescribed in section 118, and, if satisfied that there is sufficient ground for so doing, shall stay the sale and proceed to enquire into, and adjudicate upon, the objection, in the same manner, and subject to the same right of suit by the party against whom judgment may be given, as is provided in section 126.

Service of process.

131. Every process issued by a Deputy Commissioner under this Act shall be under the seal and signature of the Deputy Commissioner, and shall be served or executed by the Názir, or by such other officer as the Deputy Commissioner may direct, at the cost of the party at whose instance it issued.

Deputy Commissioner may hold Court in any part of jurisdiction.

132. The Deputy Commissioner may hold a Court for hearing and determining suits under this Act in any place within the limits of his district or local jurisdiction, provided that every hearing and decision shall be in open Court, and that the parties to the suit, or their authorized agents, shall have had due notice to attend at such place.

Powers of Deputy Collectors.

133. All the powers conferred on the Deputy Commissioner by this Act may be exercised by any Deputy Collector in cases referred to him by a Deputy Commissioner; and in all cases without such reference, by any Deputy Collector placed in charge of any sub-division of a district, or specially authorized by the Local Government to receive such cases;

and all applications and reports allowed or required by this Act to be made to the Deputy Commissioner may be made to any Deputy Collector having such local jurisdiction, or specially authorized as aforesaid.

Control of Deputy Commissioner and Deputy Collectors.

134. In the performance of their duties under this Act, the Deputy Commissioners and Deputy Collectors shall be subject to the general direction and control of the Commissioner and the Board of Revenue; and the Deputy Collectors shall be subject to the direction and control of the Deputy Commissioner to whom they are subordinate.

Appeal from orders of Deputy Commissioner and Deputy Collectors.

135. All orders passed by a Deputy Commissioner under this Act, not being judgments in suits or orders passed in the course of suits and relating to the trial thereof, or orders passed after decree and relating to the execution thereof, shall be appealable to the Commissioner, and all such orders passed by a Deputy Collector shall be appealable to the Deputy Commissioner;

but no judgment of a Deputy Commissioner or Deputy Collector in any suit, and no order of a Deputy Commissioner or Deputy Collector passed in any suit and relating to the trial thereof, or after decree and relating to the execution thereof, shall be open to revision or appeal otherwise than as expressly provided in this Act.

Time for presenting appeals from orders.

136. Every appeal against the order of a Deputy Commissioner shall be presented to the Commissioner within thirty days, and every appeal against the order of a Deputy Collector shall be presented to the Deputy Commissioner within fifteen days from the date of the order.

Orders passed in appeal by a Commissioner or a Deputy Commissioner shall not be open to any further appeal; but the Board of Revenue or the Commissioner may call for any case and pass such orders thereon as they may think proper.

No appeal from decree of Deputy Commissioner for money below rupees 100 unless decision involve certain question.

137. In suits under clauses 2, 4 and 7 of section 37, tried and decided by a Deputy Commissioner, if the amount sued for, or the value of the property claimed, does not exceed one hundred rupees, the judgment of the Deputy Commissioner shall be final, and not open to revision or appeal except as hereinafter provided, unless in any such suit a question relating to a title to land, or to some interest in land as between parties having conflicting claims thereto, has been determined by the judgment, in which case the judgment shall be open to appeal in the manner provided in section 144.

In suits not open to appeal, Deputy Commissioner may grant rehearing on discovery of new evidence, &c.

138. In suits in which the judgment of the Deputy Commissioner is final, as provided in the last preceding section, the Deputy Commissioner may, upon the application of either party, if made within thirty days from the date of the decision, order the rehearing of a suit upon the ground of the discovery of new evidence or matter material to the issue of the case, which the applicant had no knowledge of, or could not produce, at the time of trial.

Appeal from decision of

139. When any such suit as aforesaid, in which, if tried and decided by a Deputy Commissioner, the judgment of the Deputy Commissioner would be

Deputy Collector.

final, is tried and decided by a Deputy Collector, an appeal from the judgment of the Deputy Collector shall lie to the Deputy Commissioner.

Period allowed for appeal.

140. The petition of appeal shall be presented to the Deputy Commissioner within fifteen days from the date of decree; provided that such time as may be requisite for procuring a copy of the decree appealed against shall not be reckoned as part of the fifteen days.

Procedure in appeal.

141. The Deputy Commissioner shall fix a day for hearing the appeal, and shall cause notice of the same to be served on the respondent.

If on the day fixed for hearing the appeal, or any other day to which the hearing may be adjourned, the appellant does not appear in person or by an agent, the appeal shall be dismissed for default.

If the appellant appears, and the respondent does not appear in person or by an agent, the appeal shall be heard *ex parte*.

Re-admission of appeal.

142. If an appeal is dismissed for default of prosecution, the appellant may, within fifteen days from the date of the dismissal, apply to the Deputy Commissioner for the re-admission of the appeal; and if it shall be proved to the satisfaction of the Deputy Commissioner that the appellant was prevented by any sufficient cause from appearing when the appeal was called on for hearing, the Deputy Commissioner may re-admit the appeal.

Judgment in appeal.

143. After hearing the appeal, the Deputy Commissioner shall give judgment in the manner hereinbefore prescribed for giving judgment in original suits, and the judgment of the Deputy Commissioner shall be final.

In what suits appeal to lie to Judicial Commissioner or High Court.

144. In all suits other than those in which, when tried and decided by a Deputy Commissioner, the judgment of the Deputy Commissioner is declared to be final, or when tried and decided by a Deputy Collector an appeal is allowed to the Deputy Commissioner, an appeal from the judgment of the Deputy Commissioner or Deputy Collector shall lie to the Judicial Commissioner of the division, unless the amount or value in dispute exceed five thousand rupees, in which case the appeal shall lie to the High Court.

Limitation of appeals.

145. Appeals to the Judicial Commissioner or to the High Court under this Act shall be presented within the time prescribed for the presentation of appeals to a District Judge or to the High Court under the Code of Civil Procedure by the law for the time being in force for the limitation of appeals.

Suits to be preferred in revenue-office of district in which greater part of land is situate.

146. Suits under this Act shall be preferred in the revenue-office of the district;

or, when a sub-division of a district has been placed under the jurisdiction of a Deputy Collector, in the revenue-office of the sub-division in which the cause of action shall have arisen;

or, when the cause of action has arisen within the limits of the local juris-

diction of any Deputy Collector not in charge of a sub-division, but who has been specially authorized by the Local Government to receive such suits, then in the office of such last-mentioned Deputy Collector:

Provided that the Deputy Commissioner may withdraw any suit from any Deputy Collector and try it himself, or refer it to another Deputy Collector.

Procedure if lands are situated in more than one district or sub-division.

147. If the lands comprised in any taluq, farm or other tenure, or any lands held under one lease or engagement, or at one entire rent, in respect of which arrears of rent may be due, are situated in more than one district or sub-division, the district or sub-division in which the greater part of such lands is situated shall be held to be the district or sub-division in which the cause of action has arisen;

and if any question shall be raised respecting the district or sub-division in which the greater part of the lands is situated, the Board of Revenue, or, if all the lands are situated in one district, the Deputy Commissioner of the district, shall decide the question, and such decision shall be conclusive on the point of jurisdiction.

Except as above, Deputy Commissioner not to exercise jurisdiction as to lands situate beyond district.

148. Except as provided in the last preceding section, no Deputy Commissioner shall exercise any jurisdiction under this Act in respect of any lands situated beyond the limits of the district to which he is appointed, by reason of such lands forming part of an estate the revenue of which is paid into the treasury of the said district.

Service of notice or summons.

149. Every notice or summons in and by this Act required to be served on any person may be served—

(1) by delivering the same to the person to whom it is directed;

or, on failure of such service, by posting the same on some conspicuous part of the house in which the said person usually resides;

or by delivering the said notice or summons to a general agent of the person to whom such notice or summons is directed, or to any person who has been appointed in that behalf; or

(2) by sending a registered letter containing such notice or summons directed to the said person at his usual place of abode;

(3) or, if no such place of abode can be found, and if the notice or summons cannot be served in any of the other modes mentioned in this section, by posting the same at the bhandhar of the village or holding to which the notice or summons relates.

Saving clause.

150. Nothing contained in this Act shall be held to affect the provisions of Bengal Act II of 1869,[a] or of Bengal Act VI of 1876.[b]

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[a] See *supra*, p. 595.

[b] See *supra*, p. 1096.

SCHEDULE A.

(*See section 3*).

Being Acts repealed in the Territories to which this Act extends.

Date and No. of Act.	Title of Act.	Extent of repeal.
Act X of 1859 ...	An Act to amend the law relating to the recovery of rent in the Presidency of Fort William in Bengal.	The whole Act.
Act VI of 1862, passed by the Lieutenant-Governor of Bengal in Council.	An Act to amend Act X of 1859 ...	The whole Act.
Act IV of 1867, passed by the Lieutenant-Governor of Bengal in Council.	An Act to explain and amend Act VI of 1862, passed by the Lieutenant-Governor of Bengal in Council, and to give validity to certain judgments.	The whole Act.

SCHEDULE B.*

(*See section 14*).

I, *A B*, of &c., do solemnly declare that I did personally (*or* by my agent *C D*) on the day of tender payment to *E F*, at his málkachahrí (*or* at) the place where the rent of the lands at held or cultivated by me under or from the said *E F* are usually payable, of the sum of rupees as and for the whole amount due from me in respect of the rent of the said lands from the month of to the month of , both inclusive. I further declare that the said *E F* refused to accept the said sum so tendered (*or* to give me a receipt in full forthwith for the same). And I do declare that to the best of my belief the sum of rupees so tendered, and which I now desire to pay into Court, is the full amount which I owe the said *E F* on account of the rent of the said lands from the month of to the month of , both inclusive, and that I owe the said *E F* no further sum on account of the rent of the said lands.

* If this declaration is made by an agent, it must be altered accordingly.

SCHEDULE C.*

(*See section 14*).

Court of the Deputy Commissioner of

Dated the day of 18

To *E F* of *&c.*

WITH reference to the within declaration, you are hereby informed that the sum of rupees therein mentioned is now in deposit in this Court, and that the above sum will be paid to you or to your duly authorized agent on application. And take notice that if you have any further claim or demand whatsoever to make against the said *A B* in respect of the rent of the said lands, you must institute a suit in Court for the establishment of such claim or demand within 6 calendar months from this date, otherwise your claim will be for ever barred.

SCHEDULE D.

(*See section 55*).

FORM OF SUMMONS TO DEFENDANT.

No. (*of suit*) dated

In the Court of

A B, Plaintiff.

[*Name, description and address of plaintiff.*]

C D, Defendant.

[*Name, description and address of defendant.*]

Whereas the said *A B* has brought a claim against you in this Court for [*here specify particulars of claim as given in the statement*] you are hereby required to appear in person in this Court on the day of [*if not specially required to appear in person, state* "in person or by an agent who has personal knowledge of the subject, or who shall be accompanied by a person who has such knowledge"] to answer the above-named plaintiff, and you will bring with you (*or* send by your agent) [*here mention any document the production of which may be required by the plaintiff*] which the plaintiff desires to inspect, and all documents on which you may intend to rely in support of your defence. You will also bring with you your witnesses, if they are willing to attend without issue of process.

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* This is to be by endorsement on a copy of the declaration under schedule B made by the person paying the money into court.

SCHEDULE E.

(*See section 57*).

FORM OF WARRANT OF ARREST.

No. (*of suit*) dated

In the Court of

A B, Plaintiff.

C D, Defendant.

To

The Názir of the Court of the Deputy Commissioner of

Whereas the plaintiff in this suit has obtained an order from the Court for the arrest of the defendant, you are hereby commanded to bring the defendant before the Court on or before the day of to be dealt with according to law.

Dated this day of 187 .

SCHEDULE F.

(*See section 57*).

FORM OF NOTICE TO ACCOMPANY SUCH WARRANT.

In the Court of

A B, Plaintiff.

[*Name, description and address of plaintiff.*]

C D, Defendant.

[*Name, description and address of defendant.*]

Whereas the said *A B* has brought a claim against you in this Court for (*here specify particulars of claim as given in the statement*) and has obtained a warrant for your arrest, you are hereby required, unless you admit the claim, to bring with you to the Court all documents on which you may intend to rely in support of your defence.

SCHEDULE G.

(*See section 59*).

FORM OF SECURITY-BOND FOR APPEARANCE OF DEFENDANT.

Whereas *A B*, plaintiff, has instituted a suit in the Court of the Deputy Commissioner of against *C D*, defendant, and the said *C D* has been required to give security for his appearance at any time when called on while the suit is depending and until execution of the decree, I, *E F*, hereby declare myself surety for the said *C D's* appearance as aforesaid, and in case

of his making default in such appearance, I engage to pay any sum for the payment of which the said *C D* may be liable under the decree. *If the suit be for the delivery of papers or accounts, specify some sum to be fixed by the Deputy Commissioner.*

SCHEDULE H.

(*See section 99*).

WRIT OF EXECUTION AGAINST THE PERSON.

A B, Plaintiff.
C D, Defendant.

To

The Názir of the Court of the Deputy Commissioner of

Whereas the said *C D* was directed by a decree of this Court, under date the day of 187 , to pay to *A B* the sum of and for costs of suit, amounting to , and whereas the said *C D* has omitted to pay the same, you are hereby commanded to apprehend the said *C D* and to bring him with all convenient speed before this Court to be dealt with according to law.

SCHEDULE I.

(*See section 99*).

WRIT OF EXECUTION AGAINST THE MOVEABLE PROPERTY.

A B, Plaintiff.
C D, Defendant.

To

The Názir of the Court of the Deputy Commissioner of

Whereas *C D* was directed by a decree of this Court, under date the day of 187 , to pay to *A B* the sum of and for costs of suit, amounting to , and whereas the said *C D* has omitted to pay the same, you are hereby commanded to levy the said sum of , and the sum of for costs of executing this process, by seizure and sale of such moveable property of the said *C D* as (is described in the list annexed, and) [*if no list is furnished, these words to be omitted*] shall be pointed out to you by the judgment-creditor or his agent; and you are hereby ordered to sell such property of the said *C D* on some convenient day, not being less than 10 nor more than 15 days from the day of seizure, unless the amount leviable as aforesaid shall be sooner paid; and you are hereby commanded to certify to me what you shall do by virtue of this warrant.

ACT No. II of 1879.

Received the Lieutenant-Governor's assent on the 26th of February 1879, and the Governor General's assent on the 22nd of March 1879.

An Act to amend and extend the Púri Lodging-house Act 1871.

Preamble.

WHEREAS it is expedient to amend Bengal Act No. IV of 1871,[a] and to give power to the Lieutenant-Governor of Bengal to extend the provisions of the said Act to places other than those specified in section 39 of the said Act; It is enacted as follows :—

Commencement.

1. This Act shall come into force from the date on which it may be published in the *Calcutta Gazette* with the assent of the Governor General.

Amendment of section 22 of Púri Lodging-house Act.

2. Section 22 of Bengal Act No. IV of 1871 is repealed and the following section substituted :—

"22. All fines and fees under this Act shall be expended in the sanitary improvement of all or any of the towns or places in which this Act may be in force, or in the sanitary improvement of pilgrim-halting-places or the roads leading to such towns or places, in such manner as the Lieutenant-Governor of Bengal may from time to time direct."

Lieutenant-Governor may extend Púri Lodging-house Act.

3. The Lieutenant-Governor of Bengal may from time to time, by notification in the *Calcutta Gazette*, extend Bengal Act No. IV of 1871, as amended by this Act, or any part of it, to any town or place to or through which people go on pilgrimage and to the lines of road leading thereto; and

the provisions of the said Act, or of any part of it, as the case may be, shall, from the date of such notification, apply accordingly with the following modifications :—

In lieu of the word "Pooree" in sections 2, 3, 7 and schedule B, shall be substituted the name of the place or places mentioned in the notification.

In lieu of the words "the rate of eight annas" in section 8, shall be substituted the words "a rate not exceeding one rupee."

In lieu of the last five words in section 14, shall be substituted the words "in the character of the vernacular of the district."

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[a] See *supra*, p. 693.

ACT No. III OF 1879.

Received the Lieutenant-Governor's assent on the 12th of March, 1879, and the Governor General's assent on the 24th of April, 1879.

An Act to provide for the periodical inspection of Steam-boilers and Prime-movers attached thereto in the town and suburbs of Calcutta and in Howrah.

Preamble.

WHEREAS it is expedient to provide for the periodical inspection of steam-boilers and prime-movers attached thereto in the town and suburbs of Calcutta and in Howrah; It is enacted as follows :—

Extent.

1. This Act extends to the town of Calcutta,

to the suburbs of Calcutta and to Howrah, as from time to time defined in the *Calcutta Gazette* under the provisions of any law for the time being in force;

Commencement.

and it shall come into force from the date on which it may be published in the *Calcutta Gazette* with the assent of the Governor General.

Lieutenant-Governor may extend it further.

The Lieutenant-Governor of Bengal may, by notification published in the *Calcutta Gazette*, extend this Act to any place or district, and it shall come into force accordingly from the date which may be named in such notification.

It shall not apply to any locomotive engine used upon any railway, or to any steam-vessel in the port of Calcutta.

Repeal of Bengal Acts VI of 1864 and III of 1875.

2. Bengal Act VI of 1864 and Bengal Act III of 1875 are hereby repealed.

But all certificates and rules in force at the commencement of this Act, which were granted or made under either of the said Acts, shall be deemed to have been granted and made respectively under this Act.

Interpretation.

3. In this Act, unless there be something repugnant in the subject or context—

"Boiler."

"boiler" includes any cylinder or vessel for generating steam under pressure:

"Prime-mover."

"prime-mover" includes any steam-engine, fly-wheel, first driving shaft and pulley attached to any such engine:

"Owner."

"owner" includes any agent or hirer using any boiler or prime-mover.

Power to make rules.

4. The Lieutenant-Governor may from time to time make, and when made revoke, add to, and alter, rules for all or any of the following purposes, that is to say—

(1) for appointing and, when appointed, suspending or removing inspectors under this Act;

(2) for determining the powers and duties of such inspectors;

(3) for fixing the fees payable on account of certificates granted under this Act;

(4) for determining the time for which certificates granted under this Act shall be in force;

(5) for securing the attendance of assessors and affixing a penalty for non-attendance;

(6) for regulating the procedure on hearing appeals

(7) for carrying out the purposes of this Act.

Such rules shall be published three times in the *Calcutta Gazette*, and shall come into operation at the date of the last publication or at any later period mentioned in the order.

On notice from owner, inspector to examine boiler or prime-mover.

5. The owner of any boiler or prime-mover in respect of which a certificate is not in force in the manner hereinafter described shall, before using the same, give notice to an inspector appointed under this Act of his intention to use or continue to use the same.

The inspector to whom such notice is given shall appoint a time between sunrise and sunset, and within fourteen days from the receipt of such notice, for the inspection of such boiler or prime-mover, and at such time shall carefully examine such boiler or prime-mover, and every part thereof, and the owner or person in charge thereof shall afford to such inspector all reasonable facilities for such examination, and all such information as may reasonably be required.

Inspector may order owner to alter boiler or prime-mover.

6. If on making the inspection the inspector is of opinion that the boiler or prime-mover requires any alteration or addition, he shall serve on the owner or person in charge thereof a written notice requiring him to make such alteration or addition, and no certificate shall be granted in respect of such boiler or prime-mover until such alteration or addition has been made in the manner required by the inspector, or the owner has obtained a certificate under section 9 of this Act.

When inspector to grant certificate.

7. If the inspector is satisfied that such boiler or prime-mover is in good condition, and not so exposed as to be likely to be dangerous,

and, in case any alteration or addition in such boiler or prime-mover has been ordered under the last preceding section, as soon as he is satisfied that such alteration or addition has been properly made,

he shall give to the owner or person in charge thereof a certificate signed by him to that effect in the form in the schedule hereto annexed, on payment, by the owner or person in charge, of such fees as may be fixed under the rules hereinbefore mentioned;

and such certificate shall state the period for which such boiler or prime-mover may be used, and shall cease to be in force on the expiration of such period.

Revocation or suspension of certificate.

8. Any person authorized by the Lieutenant-Governor in that behalf may revoke or suspend any certificate granted under this Act when he has reason to believe—

(1) that such certificate has been fraudulently obtained, or has been granted erroneously, or without sufficient inspection;

(2) that the boiler or prime-mover in respect of which it has been granted is not in charge of a person competent to have charge of it, or has since the granting of such certificate sustained injury, or is not in good condition.

Appeal against refusal, revocation or suspension of certificate.

9. The owner of any boiler or prime-mover dissatisfied with any notice or order under sections 6, 7 or 8 of this Act may, within seven days from receipt thereof, appeal either to some person authorized by the Lieutenant-Governor in that behalf, or to some such person assisted by two experts as assessors.

If such person is satisfied that the owner is entitled to a certificate, he shall, on payment of the fee, grant a certificate in the form in the schedule hereto annexed, or shall allow the former certificate to continue in force, as the case may be, and shall direct that the expenses of the appeal incurred by Government and certified to by him shall be paid out of the fees and penalties realized under this Act.

If such person decides that the owner is not entitled to a certificate, he shall dismiss the appeal, and the expenses of the appeal incurred and certified in manner aforesaid shall be recoverable from the owner as a fine by any Magistrate having jurisdiction in the place where the boiler or prime-mover is situated.

Power of entry of inspectors.

10. Any inspector appointed under this Act may at any time enter into any place where he has reason to believe that a boiler or prime-mover is used, for the purpose of inspecting the same.

Penalties.

11. The owner or person in charge of any boiler or prime-mover who shall use, or, after conviction, continue to use, the same without a certificate duly obtained and in force in respect thereof under this Act, or having obtained a certificate shall, at any reasonable time during the period for which the same may be in force, fail to produce it when called upon to do so by any Magistrate having jurisdiction in the place in which such boiler or prime-mover is situated, or by any person authorized in writing by such Magistrate to demand its production, and

any person who shall prevent an inspector from entering any place or building where the inspector has reason to believe that a boiler or prime-mover is used,

shall be punished with a fine not exceeding five hundred rupees.

Charges within what period to be brought.

12. No charge shall be brought against any person for the recovery of any penalty under this Act before such day as the Lieutenant-Governor shall fix by notification in the *Calcutta Gazette*; and no charge at all shall be brought without the authority of an inspector appointed under this Act, or after the expiration of six months from the date of the commission of the offence.

Disposal of penalties.

13. All penalties to be levied under this Act shall, subject to the provisions of section 9, be disposed of in such manner as the Lieutenant-Governor shall from time to time direct.

SCHEDULE.

(See sections 7 and 9).

FORM OF CERTIFICATE.

Name of owner.	Description of boiler and age.	Description of prime-mover and age.	Power.	When and where made.	When and where last repaired.	Time for which certificate to be in force.	REMARKS.

I, the undersigned, certify that I have examined the above-named boiler (*or* prime-mover), and to the best of my judgment the boiler (*or* prime-mover), as shown in the above statement, is in good condition, and is not so exposed as to be likely to be dangerous [and (*in case alterations or additions have been ordered*) that the alterations (*or* additions) required by me have been properly made.]

A. B.,
Inspector.

ACT No. IV OF 1879.

Received the Lieutenant-Governor's assent on the 15th of April 1879, and the Governor General's assent on the 6th of May 1879.

An Act to repeal certain sections of Bengal Act IV of 1866 and to provide for the levy of fees upon certain passenger-boats and steam-ferries.

Preamble.

WHEREAS it is expedient to repeal certain sections of Bengal Act IV of 1866,[a] and to enable the Local Government to levy fees upon passenger-boats and steam-ferries plying for passengers, either wholly within, or partly within and partly without, the limits of the port of Calcutta;

It is enacted as follows:—

Repeal of sections 63 to 65 of Calcutta Police Act.

1. Sections 63, 64 and 65 of Bengal Act IV of 1866, the Calcutta Police Act, are hereby repealed.

Levy of fees on passenger-boats.

2. The Local Government may, by notification published in the *Calcutta Gazette* from time to time, prescribe a scale of fees, annual or other, to be paid

[a] See *supra*, p. 526.

by the owners of passenger-boats or steam-ferries plying for passengers either wholly within, or partly within and partly without, the limits of the port of Calcutta.

3. Whoever, being the owner of any such passenger-boat or steam-ferry, refuses or neglects to pay the fee to which he is liable in accordance with such notification, shall be liable to the penalty provided for disobedience to rules made under section 7 of the Indian Ports Act, 1875. Penalty.

4. This Act shall not apply to boats whose voyages ordinarily extend more than thirty miles from the limits of the port of Calcutta. Application of Act.

5. This Act shall come into force on such date as the Lieutenant-Governor of Bengal may direct by notification published as aforesaid. Commencement.

ACT No. V OF 1879.

Received the Lieutenant-Governor's assent on the 15th of April, 1879, and the Governor General's assent on the 14th of May, 1879.

An Act to consolidate and amend the law relating to Jute-warehouses and Fire-brigades.

WHEREAS it is expedient to consolidate and amend the law relating to jute-warehouses and fire-brigades; It is enacted as follows:— Preamble.

PART I.

PRELIMINARY.

1. This Act may be called "The Jute-warehouse and Fire-brigade Act, 1879." Short title.

With the exception of Part III and section 25, it applies to Calcutta and to such portions of the suburbs thereof as are for the time being subject to the operation of Bengal Act II of 1866,[a] and also to the municipality of Howrah. Extent.

Part III and section 25 apply only to Calcutta and the portions of the suburbs aforesaid:

And it shall come into force from the date on which it may be published in the *Calcutta Gazette* with the assent of the Governor General. Commencement.

2. Bengal Act II of 1872,[b] Bengal Act II of 1875,[c] and Bengal Act I of 1877, are hereby repealed. Repeal of Acts.

But all bye-laws and appointments made under the said Acts and now in force shall be deemed to have been made under this Act.

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[a] See *supra*, p. 511. [b] See *supra*, p. 749. [c] See *supra*, p. 849.

Definitions.

3. In this Act, unless there be something repugnant in the subject or context—

"Jute." "Cotton."

"jute" and "cotton" mean respectively "jute" and "cotton" which have not been pressed or screwed as if for shipment:

"Person."

"person" includes a firm and a Hindú undivided family:

"Magistrate."

"Magistrate" includes a Justice of the Peace for Calcutta, and any person exercising all or any of the powers of a Magistrate:

"Jute-warehouse."

"jute-warehouse" means any warehouse, store, depôt, yard, godown or other place used for the storing, keeping, pressing or depositing of jute or cotton or other substance for the time being subject to the operation of this Act:

"The Commissioners."

"the Commissioners" means the Corporation of the town of Calcutta.

PART II.

JUTE-WAREHOUSES.

Existing warehouses not to be used till licensed.

4. No jute-warehouse shall be used for the storing, keeping, pressing or depositing of jute or cotton, unless the owner or occupier thereof shall have previously obtained a license for such use.

Fee for license for jute-warehouse.

5. From and after the commencement of this Act every license granted to a jute-warehouse within the town of Calcutta under Bengal Act II of 1872[a] or Bengal Act II of 1875,[b] shall be subject to the payment of an annual fee, to be fixed by the Local Government, after consulting the Commissioners at a special meeting, and to be paid in such instalments as the Commissioners may direct.

In fixing the amount of fee to be paid in respect of any jute-warehouse, the Local Government shall have regard to the annual value thereof as it is for the time assessed, to the payment of municipal taxes, to the size and position of the jute-warehouse, to the number and excellence of the pressing machines erected or proposed to be erected in such jute-warehouse, and to the probable income derived from such jute-warehouse by its owner or occupier.

The Local Government may from time to time, on the recommendation of the Commissioners at a special meeting, alter the amount of the fee to be paid in respect of any jute-warehouse.

License for new jute-warehouse.

6. Any person proposing to use any land for the purposes of a jute-warehouse within the town of Calcutta shall send to the Commissioners a plan of such land and all the buildings thereon, prepared in such manner as the Commissioners may direct, and it shall be within the discretion of the Commissioners at a special meeting to grant or refuse a license to establish the same.

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[a] See *supra*, p. 749.

[b] See *supra*, p. 849.

Every license for a jute-warehouse, to be granted under this section, shall be subject to the following conditions, namely—

(1) that no loose jute, jute-rejections or cuttings, or cotton, shall be stored, or screwed, or pressed, save within a building constructed of such materials, and on such a plan, as may be approved of by the Commissioners;

(2) that no loose jute, jute-rejections or cuttings, or cotton, shall be combed or dried except within an enclosure, and that the top or roof of any building or of any hut shall not be used for such combing or drying without the sanction in writing of the Commissioners;

(3) that space shall be reserved on land appertaining to the jute-warehouse for the loading or unloading of carts;

(4) that no portion of the jute-warehouse shall be used as a residence, and no artificial light (other than one duly and thoroughly protected) or lucifer-matches shall be introduced therein, and that no person shall smoke therein;

(5) that the jute-warehouse shall at all times be open to the inspection of officers duly appointed by the Commissioners;

(6) that the engines and furnaces used in the jute-warehouse shall be placed as may be considered necessary by the Commissioners;

(7) that an annual fee shall be imposed in respect thereof as provided by the last preceding section.

Appointment of inspecting officers.

7. The Commissioners shall appoint suitable officers for the inspection of jute-warehouses within the town of Calcutta; and any officer so appointed, and any superintendent or inspector of Police within the said town, may enter at any time into any jute-warehouse, where jute or cotton may be kept, and inspect the same.

On change of occupation in warehouse, occupier to give notice.

8. On a change in the occupation of any jute-warehouse, the person entering into occupation of the same shall, within two weeks of his so entering into occupation, give notice in writing to the Commissioners of such change of occupation, and shall thereupon pay to the Commissioners a fee of two rupees; and his name shall accordingly be substituted in such license for the name of the last occupier.

If any jute-warehouse is let out in portions, the person so letting it out and entitled to the rent shall, for the purposes of this Act, be deemed to be the occupier.

Cancelment or suspension of license.

9. It shall be in the discretion of the Commissioners at a special meeting to cancel or to suspend for such time as they shall think fit the license of any jute-warehouse in respect of which any one or more of the conditions under which such license is held shall appear to them to have been broken, or in

respect of which the provisions of the last preceding section have been broken.

Municipal Commissioners to have same power as the Calcutta Commissioners.

10. The provisions of the five last preceding sections shall apply to any jute-warehouse situated or used, or any land proposed to be used, as a jute-warehouse out of the town of Calcutta and within the limits of the operation of this Act, save that the powers and duties conferred and imposed respectively on the Commissioners, or on the Commissioners at a special meeting, shall be exercised and discharged by the Municipal Commissioners at a meeting within whose jurisdiction such warehouse or land is situated.

PENALTIES.

Penalty for not taking out license.

11. Any person who without a license uses any jute-warehouse for keeping or depositing jute or cotton, shall be liable, on conviction before a Magistrate, to a penalty not exceeding one hundred rupees for each day during which he may use or continue to use such jute-warehouse as aforesaid.

Penalty for establishing warehouse without license.

12. Any person who without a license uses any jute-warehouse for keeping or depositing jute or cotton established after the commencement of this Act, shall be liable, on conviction before a Magistrate, to a penalty not exceeding five hundred rupees, and to a further penalty not exceeding fifty rupees for every day during which such jute-warehouse is used for keeping or depositing jute or cotton without a license.

Penalty for using warehouse after refusal of license.

13. Any person who uses a jute-warehouse for the keeping or depositing of jute or cotton after the Commissioners or Municipal Commissioners shall have refused or cancelled a license in respect thereof, or during the time for which such license shall have been suspended, shall be liable, on conviction before a Magistrate, to a penalty not exceeding five hundred rupees, and to a further penalty not exceeding one hundred rupees for every day during which any such jute-warehouse may be so used as aforesaid.

Penalty on occupier in case of breach of conditions of license.

14. Whenever any of the conditions under which a license is held in respect of any jute-warehouse have been broken in such jute-warehouse, the person whose name appears on the license as the occupier of such jute-warehouse shall be liable, on conviction before a Magistrate, to have his license cancelled, or to a fine not exceeding five hundred rupees.

Penalty on any person in case of breach of conditions of license.

15. Any person who breaks any of the conditions under which a license is held in respect of any jute-warehouse shall be liable, on conviction before a Magistrate, to a penalty not exceeding fifty rupees for any one such offence.

Penalty for omitting to give notice on change of occupation.

16. If on a change in the occupation of any jute-warehouse, the person entering into occupation fail to give the notice required by section 8 of this Act, such person shall be liable, on conviction before a Magistrate, to a penalty not exceeding one hundred rupees.

PART III.

FIRE-BRIGADE.

Commissioner of Police to take charge of fire-brigade.

17. The Commissioner of Police for the town of Calcutta shall, as soon as may be after the commencement of this Act, take charge of the existing fire-brigade, with all buildings, engines, animals, accoutrements, tools and implements, and thereafter from time to time make such further or other provision as he may deem expedient in order to maintain it efficiently for the town and suburbs of Calcutta.

Local Government may make orders.

18. The Local Government may from time to time make, and when made alter or repeal, such general or special orders as it may think fit—

for appointing or removing any member or officer of the force;

for furnishing the fire-brigade with such fire-engines, fire-escapes, horses, oxen, accoutrements, tools and implements as it may think proper;

for building, providing or hiring places for the keeping of the force, engines, horses and appurtenances;

for giving gratuities to persons who have given notice of fires;

for the training, discipline, good conduct, salaries and pensions of the members of the force;

for the speedy attendance of such members with engines and all necessary implements on the occasion of any alarm of fire;

for sending the force, engines and appurtenances beyond the limits of the town and suburbs of Calcutta in order to extinguish fire in the neighbourhood of the said limits;

for imposing and summarily realizing a fine not exceeding one week's wages from any member of the brigade who may infringe these bye-laws;

generally, for the maintenance of the fire-brigade in a due state of efficiency.

Such orders shall be published in the *Calcutta Gazette*, and shall take effect from such publication.

Powers of fire-brigade in cases of fire.

19. On the occasion of a fire, the chief or other officer in charge of the fire-brigade on the spot may—

(*a*) remove, or may order any member of the brigade to remove, any persons who by their presence interfere with the due operations of the brigade;

(*b*) by himself or by his men break into or through, or pull down, any premises for the purpose of putting an end to the fire, doing as little damage as possible;

(*c*) cause the mains and pipes of any district to be shut-off, so as to give greater pressure of water in the place where the fire has occurred;

(*d*) call on the officer in charge of the Port Commissioners' fire-engine to render such assistance as may be possible in the case of any fire occurring near the river-bank ;

(*e*) and, generally, take such measures as may appear necessary for the preservation of life and property.

The chief officer on the spot in charge of the brigade may verbally nominate and depute one or more officers of the brigade to act at a distance, and such officer or officers shall have for the time being the like powers as the chief officer himself possesses under this section.

Police-officers to render assistance.

Police-officers of all grades shall be authorized to aid the fire-brigade in the execution of its duties. They may close any street in or near which a fire is burning, and they may, of their own motion or on the request of the chief or other officer of the fire-brigade, remove any persons who interfere by their presence with the operations of the fire-brigade.

Damage done to be deemed damage by fire.

Any damage done by the fire-brigade in the due execution of their duties shall be deemed to be damage by fire within the meaning of any policy of insurance of property in Calcutta or the suburbs against fire.

But nothing in this section shall exempt any officer of the Police or of the fire-brigade from liability to damages on account of any acts done by him without reasonable cause.

Inquiry into origin of fire.

20. In the case of any fire occurring in Calcutta or the suburbs, the chief officer of the fire-brigade shall ascertain the facts as to the origin and cause of such fire and shall make a report thereon to the Magistrate having jurisdiction in the place in which such fire shall have occurred, and the said Magistrate, in any case where he may see fit, shall summon witnesses and take evidence in order to the further ascertainment of such facts.

LICENSES AND PENALTIES IN RESPECT OF FIREWORKS, ETC.

Penalty for letting-off rockets and manufacturing or selling fireworks without license.

21. Whoever shall let-off rockets or send up fire-balloons without a license from the Commissioner of Police, for which a fee not exceeding ten rupees shall be payable,

and whoever shall sell or manufacture fireworks without a license from the Commissioner of Police, for which a yearly fee not exceeding ten rupees shall be payable,

shall be liable, on conviction before a Magistrate, to a penalty not exceeding fifty rupees for every such offence.

Power to withdraw license.

22. The Commissioner of Police may, at his discretion, and after thirty days' notice, withdraw or suspend any license granted by him under this Act.

Liability of house-holders.

23. In the event of any rockets being let-off, or fire-balloons sent up, within the precincts of any private premises or compound without the express

permission in writing of the Commissioner of Police, the occupier or owner, or person under whose immediate control the said premises or compound is, shall be liable to a fine not exceeding fifty rupees, unless he can prove who the person having committed the offence is, and that the offence was committed without his knowledge.

PART IV.

Application of Funds and Apportionment of Expenses.

Application of moneys received under Act.

24. The Commissioners and Municipal Commissioners of the suburbs and Howrah respectively shall apply the moneys derived from the fees and penalties levied under this Act within their respective jurisdictions—

(1) in payment of the expenses of a fire-brigade;

(2) in payment of all expenses incurred by them respectively in or about the inspection and superintendence of jute-warehouses, and the granting of licenses in respect thereof.

Any balance which may remain after payment of such expenses shall be applied in reduction of the fees levied on licenses for jute-warehouses under this Act.

Proportions of contribution towards payment of expenses of fire-brigade.

25. The cost of all establishments and plant hired or purchased, and of all other charges under Part III of this Act, shall be contributed by the Commissioners for the town of Calcutta, and by the suburban Commissioners in the following proportions, namely—by the Commissioners for the town of Calcutta, seven-tenths; by the suburban Commissioners, three-tenths.

At the end of each quarter of a year the Commissioner of Police shall certify to the Calcutta and suburban Commissioners respectively the total cost of the fire-brigade for such quarter, the money which may have accrued from the fees and penalties levied under this Act in Calcutta and the suburbs, and the precise sum which must be paid by the said Commissioners respectively.

On the receipt of such certificate, the said Commissioners shall forthwith pay the sum certified against them, provided that in no case shall the three-tenths payable in any year by the suburban Commissioners exceed the sum of ten thousand rupees.

PART V.

Miscellaneous.

Lieutenant-Governor may declare the warehousing of any other sub-

26. The Lieutenant-Governor of Bengal may, on the recommendation of the Commissioners passed by resolution, declare that any other fibre or any commodity which is stored or deposited in warehouses besides jute or cotton, shall be warehoused and kept subject to the provisions of Part II of this Act.

stance to be subject to Act.

When such declaration shall have been made in the *Calcutta Gazette*, this Act shall be read as if the name or names of the said fibre or commodity had been printed in addition to the words "jute" or "cotton" in the several sections of Part II, wherein the said words "jute" or "cotton" may occur.

Submission of reports.

27. The Commissioners for the town of Calcutta and Municipal Commissioners, respectively, shall make a report to the Lieutenant-Governor once a year, at such time as the Lieutenant-Governor shall direct, showing how the provisions of this Act have been carried out, and specifying the jute-warehouses in respect of which licenses have been granted.

Such report shall be forthwith published in the *Calcutta Gazette*.

Power to arrest.

28. Any person committing any offence in respect of which a penalty is provided by section 15 or section 23 of this Act may, if his name and address be unknown, be arrested by any officer of Police, and forthwith conveyed before some Magistrate having jurisdiction in the place in which such offence has been committed, or shall be taken to the nearest Police-station within the said jurisdiction in order that such person may be detained until he can be brought before a Magistrate, or until he shall enter into recognizance with or without sureties for his appearance before a Magistrate.

Offenders to be brought to trial.

29. Whenever such person shall be taken to a Police-station, the officer in charge of such station shall, as soon as conveniently may be, cause him to be conveyed before some Magistrate having jurisdiction in the matter.

Form of license.

30. Every license granted under Part II of this Act shall, as far as possible, be in the form in the schedule to this Act annexed.

Saving of places of manufacture or retail-trade.

31. Nothing in this Act shall be deemed to apply to places wherein small quantities of jute, not exceeding four maunds at any one time, are deposited for the purpose of any manufacture or retail-trade.

SCHEDULE.

(*See section 30*).

License under Bengal Act of 1879.

No. *of 187* .

The Corporation of the town of Calcutta hereby grant unto this license under Bengal Act of 1879 to store and press jute in premises No. Calcutta, subject to the conditions noted on the back; and they hereby

acknowledge to have received the sum of Rs. being the License-fee due by the said from to 187 in respect of the aforesaid premises at the rate of Rs. per annum.

Name of owner_____

Name of occupier_____

_____

_____

Secretary to the Corporation of the Town of Calcutta.

The day of

ACT No. VI of 1879.

Received the Lieutenant-Governor's assent on the 16th of April 1879, and the Governor General's assent on the 20th of May 1879.

An Act to provide for the construction of a steam-tramway between Siligoree and Darjeeling.

Preamble.

WHEREAS a Company has been formed called the Darjeeling Steam Tramway Company, Limited, hereinafter called the Company, for the purpose of constructing, maintaining and working a steam-tramway from Siligoree to Darjeeling; and whereas an agreement bearing date the eighth day of April eighteen hundred and seventy-nine has been entered into between Franklin Prestage, Esq., as trustee on behalf of the Company, and the Secretary of State for India in Council, for the above purpose; and whereas it is expedient that the Company should be authorized to construct, maintain and work a steam-tramway upon the existing cart-road between Siligoree and Darjeeling as aforesaid, and to do all things necessary in that behalf; It is enacted as follows:—

Short title.

1. This Act may be called "The Darjeeling Steam Tramway Act;"

Commencement.

And it shall come into force from the date on which it may be published in the *Calcutta Gazette* with the assent of the Governor General.

Power to construct tramway.

2. The Company may construct and maintain upon the said existing cart-road between Siligoree and Darjeeling a tramway, conformable to the specification and conditions set forth in the hereinbefore mentioned agreement between the said trustee for the Company and the said Secretary of State, or

any agreement which may hereafter be entered into between the Company and the said Secretary of State, with all proper rails, sidings, stations, offices, warehouses, fixed machinery and other works connected therewith or for the purposes thereof, and use and employ upon such tramway such locomotive engines or other moving power, and such carriages or wagons to be drawn or propelled thereby, as they may deem fit.

Power to obstruct cart-road.

3. The Company may, with the permission of such officer as the Local Government may from time to time empower in that behalf, obstruct the said cart-road, but in such case the Company shall provide such accommodation for the local traffic during such obstruction as the said officer shall direct.

ACT No. VII of 1879.

Received the Lieutenant-Governor's assent on the 16th of April, 1879, and the Governor General's assent on the 22nd of May, 1879.

An Act to provide for the proper management of certain inland Steam-vessels.

Preamble.

WHEREAS it is expedient that inland steam-vessels of a burden exceeding one hundred tons should be commanded by competent persons, and it is therefore desirable to provide for the examination of commanders of such vessels and for the granting of certificates to them; It is enacted as follows:—

Definition of "inland steam-vessel."

1. "Inland steam-vessel" in this Act means a steam-vessel of a burden exceeding one hundred tons engaged in the inland trade of Bengal which, in the course of its ordinary voyage, traverses at any time of the year any part of the river Hugli below the town of Calcutta.

Local Government may make rules.

2. The Local Government may from time to time make, alter, add to, or repeal, rules for the examination of, and the granting of certificates to, commanders of inland steam-vessels:

Provided that the first rules made under this Act shall be published in the *Calcutta Gazette* at least two months before they take effect.

Commanders to have certificates.

3. Every inland steam-vessel shall be commanded by a person holding a certificate duly in force under the said rules.

Penalty on owner if vessel is commanded by uncertificated commander.

4. If any such vessel is not so commanded, the owner thereof shall be liable, on conviction before a Magistrate, to a fine not exceeding one thousand rupees; and such fine may from time to time be reimposed on the said owner after the expiration of one month from the last previous conviction, so long as the provisions of section 3 are not complied with in respect of such vessel.

Commanders deemed pilots under Indian Ports Act.

5. A commander of any inland steam-vessel who holds a certificate duly in force under the said rules shall be deemed to be a pilot in respect of such vessel for the purposes of section 38 of the Indian Ports Act, 1875.

6. In any of the cases following (namely)— Notice of accidents to be given to Local Government.

(*a*) whenever any inland steam-vessel is wrecked, abandoned or materially damaged in any part of the river Hugli below the town of Calcutta;

(*b*) whenever any such vessel causes loss or material damage to any other inland steam-vessel or to any sea-going vessel in the aforesaid part of the river Hugli;

(*c*) whenever, by reason of any casualty happening to or on board of any inland steam-vessel in the aforesaid part of the river Hugli, loss of life ensues,

the commander shall give immediate notice of such wreck, abandonment, loss, damage or casualty to the Port-officer of Calcutta.

Any commander wilfully failing to give notice under this section shall be liable to a fine not exceeding five hundred rupees.

The Port-officer receiving such notice shall without delay communicate the same to the Local Government.

7. If in any such case a formal investigation appears to the Local Government to be requisite or expedient, the Local Government may order such investigation, and the provisions of section 4, sections 6 to 11 (both inclusive), and sections 15 and 16 of the Indian Merchant Shipping Act, 1875, shall be applicable, as far as may be, to all proceedings under this section. Investigation of accidents.

8. The Local Government may suspend or cancel the certificate of any commander as aforesaid if he is reported by the court making such investigation to be incompetent or to have been guilty of misconduct, or if he has been convicted of a non-bailable offence. Local Government may suspend or cancel certificates.

9. No proceedings shall be taken against any person for the recovery of a penalty under this Act before such day as the Lieutenant-Governor may fix by notification in the *Calcutta Gazette*. Proceedings to enforce penalty when to be taken.

10. This Act shall come into force from the date on which it may be published in the *Calcutta Gazette* with the consent of the Governor General. Commencement.

ACT No. VIII OF 1879.

Received the Lieutenant-Governor's assent on the 17th of April, 1879, and the Governor General's assent on the 22nd of May, 1879.

An Act to define and limit the powers of Settlement-officers.

WHEREAS it is expedient to define and limit the powers of Settlement-officers; It is enacted as follows:— Preamble.

1. This Act extends to all the territories under the administration of the Lieutenant-Governor of Bengal, and Extent.

Commencement.

it shall come into force from the date on which it may be published in the *Calcutta Gazette* with the assent of the Governor General.

Repeal of Bengal Act III of 1878.

2. Bengal Act No. III of 1878[a] (*an Act to define and limit the powers of Settlement-officers with respect to enhancement of rent*) is hereby repealed.

Interpretation.

3. In this Act—

"Settlement-officer."

"Settlement-officer" means the Collector or any officer in charge of the revenue-jurisdiction of a district, and includes any Assistant Commissioner, Deputy Collector or Sub-Deputy Collector whom the Collector or other officer as aforesaid may authorize to conduct the enquiries and proceedings connected with any settlement of land-revenue, and any officer who may be appointed by the Lieutenant-Governor to make any such settlement;

"Under-tenant."

"under-tenant" means any holder of a heritable and transferable intermediate tenure between the Government and the raiyat other than a zamíndár.

Settlement-proceedings not affected by certain Acts.

4. Nothing contained in section 51 of Regulation VIII of 1793,[b] or in sections 13, 14 and 17 of Act X of 1859,[c] or in sections 14, 15 and 18 of Bengal Act VIII of 1869,[d] shall affect any settlement-proceedings under Regulation VII of 1822,[e] or under any other law for the time being in force for the regulation of settlements of land-revenue.

Rent to be in accordance with rates sanctioned by the revenue-authorities.

5. In any such settlement-proceedings the rent recorded as demandable from each raiyat shall, except as herein otherwise provided, be in accordance with the general rates sanctioned or subsequently approved for adoption in such settlement by the revenue-authorities from time to time empowered in that behalf by the Lieutenant-Governor.

Grounds of enhancement.

6. The Settlement-officer may, on some one or other of the following grounds and not otherwise, record a higher rent as demandable from any raiyat having a right of occupancy than the rent which was previously paid by him, namely—

(i) that the higher rent so recorded is calculated on rates which are not above the prevailing rates payable by the same class of raiyats for land of a similar description and with similar advantages in the surrounding neighbourhood;

(ii) that the enhancement is not greater than is justified by the increase which has taken place in the productive powers of the land otherwise than by the agency, or at the expense, of the raiyat since the rent of the raiyat was last fixed;

(iii) that the value of the produce of the land has been increased otherwise than by the agency, or at the expense, of the raiyat since the rent of the

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[a] See *supra*, p. 1185.
[b] See *supra*, vol. I, p. 19.
[c] See *supra*, vol. I, p. 356.
[d] See *supra*, p. 602.
[e] See *supra*, vol. I, p. 178.

raiyat was last fixed; and that such higher rent does not bear a higher proportion to the rent of such raiyat as last fixed than the normal price of produce at or about the time of the present settlement bears to the normal price of similar produce which prevailed at or about the time when such rent was last fixed;

(iv) that the value of the produce of the land has been increased otherwise than by the agency, or at the expense, of the raiyat since the last previous settlement of the lands was made; and that such higher rent does not bear a higher proportion to that which would have been the rent of lands of a similar description and the same area, according to the rates of such previous settlement, than the normal price of produce at or about the time of the present settlement bears to the normal price of similar produce which prevailed at or about the time of such previous settlement, as recorded in the papers of such settlements, or as otherwise ascertained and certified by the Settlement-officer;

(v) that the quantity of land held by the raiyat has been proved by measurement to be greater than the quantity for which rent has been previously paid by him.

Rules for determining rent recorded as demandable.

7. The rent recorded as demandable from an under-tenant shall be determined in accordance with the following rules:—

(*a*) Whenever the Settlement-officer shall find any person holding as an under-tenant, he shall first ascertain and record whether the tenure so held is binding as against the Government.

(*b*) If the Settlement-officer finds the tenure to be so binding, the rent recorded as demandable from such under-tenant shall in no case be higher than an amount which shall be ten per cent. below the aggregate of the rents recorded as payable to him from the subordinate under-tenants and raiyats whose holdings fall within his tenure.

(*c*) If the Settlement-officer shall find that the tenure is not binding as against the Government, he shall first determine the proportionate amount of the demand of land-revenue to be assessed upon the lands included in the tenure in accordance with any orders of Government for the time being in force regulating the demand of land-revenue, and shall record the rent payable by such under-tenant at such a sum (not being less than such proportionate amount of land-revenue or more than the aggregate of the rents recorded as payable to him from the subordinate under-tenants and raiyats whose holdings fall within his tenure) as may seem fair and equitable with reference to the character and circumstances of the tenure.

Procedure when rent demandable is recorded.

8. When the rent demandable from any under-tenant or raiyat is recorded at an amount below that to which the rent of such under-tenant or raiyat might have been enhanced under this Act, it may be recorded that such under-

below that to which it might have been enhanced.

tenant or raiyat shall from time to time be liable to pay increased rent from such dates as may be fixed by the Settlement-officer, until the rent paid by him reaches the amount which the Settlement-officer may determine to be properly payable by him under this Act.

Service of notice of enhancement.

9. Whenever a higher rent has been recorded as demandable from any under-tenant or raiyat than the rent previously paid by him, the Settlement-officer shall cause to be published a copy of the *jamabandi* or extracts therefrom, specifying in respect of each such under-tenant or raiyat the rent recorded as payable by him, and, in the case of a raiyat, the clause or clauses of section 6 of this Act under which his rent is enhanced.

Such publication may be lawfully made by affixing a copy of the *jamabandi*, or of such extracts therefrom as the Collector may think fit, at the mál-kachahrí of the village to which the *jamabandi* relates, or at some other conspicuous place therein, and by proclamation by beat of drum in the said village to the effect that the said copy or extracts have been so affixed, and that the *jamabandi* can be inspected at the office of the Settlement-officer.

Suit to contest rents.

10. Every under-tenant and raiyat shall be liable to pay the rent recorded as demandable from him under this Act, unless it shall be proved in any suit instituted by such under-tenant or raiyat to contest his liability to pay the same that such rent has not been assessed in accordance with the provisions of this Act.

But nothing in clause (*c*) of section 7 of this Act or in this section shall be held to limit the discretion of the Court in determining in any suit under this section the rent of an under-tenant of the class described in the said clause (*c*).

No suit under this section shall be instituted otherwise than within four months after the publication of the *jamabandi* or extracts as aforesaid, in the village in which the lands which are the subject of the suit or any part thereof are situated.

Procedure in suits to contest rent recorded as demandable.

11. In all suits instituted to contest the rent recorded as demandable under this Act the Court shall, if it modifies or sets aside such rent, proceed to determine the rent payable by the plaintiff in accordance with this Act, and if any arrears of rent at the rates determined by the Court are found to be due, shall make a decree in favour of the defendant for such arrears, with such costs as may seem proper.

Enhancement when to take effect.

12. If publication of the copy of a *jamabandi* or of extracts therefrom as provided in section 9 of this Act is made within the first six months of the year of the era current in the district, the enhancement may take effect from the beginning of the year in which such publication may have been made; otherwise it shall take effect from the beginning of the next following year.

13. Rent recorded as demandable under this Act, or fixed by a final decree in any suit as aforesaid, shall not be liable to enhancement until ten years shall have elapsed from the date on which the settlement took effect, or until the period of the settlement shall have expired, whichever may first occur. Rent to hold good for ten years or until expiration of settlement.

14. The provisions of this Act shall apply to all settlement-proceedings under Regulation VII of 1822[a] which may have been confirmed after the commencement of Bengal Act III of 1878,[b] or which may hereafter be confirmed or sanctioned by the revenue-authorities from time to time empowered in that behalf by the Lieutenant-Governor, whether such proceedings shall have been commenced before or after the commencement of the said Act. Application of Act.

ACT No. IX OF 1879.

Received the Lieutenant-Governor's assent on the 15th of April, 1879, and the Governor General's assent on the 6th of June, 1879.

An Act to amend the law relating to the Court of Wards.

WHEREAS it is expedient to amend the law relating to the Court of Wards within the territories under the administration of the Lieutenant-Governor of Bengal; It is enacted as follows:— Preamble.

PART I.

PRELIMINARY.

1. This Act may be called "The Court of Wards' Act, 1879:" Short title.

It extends to all the territories under the administration of the Lieutenant-Governor of Bengal, including the Scheduled Districts of Bengal as defined in the Scheduled Districts' Act, 1874; Extent.

It shall come into force from the date on which it may be published in the *Calcutta Gazette* with the assent of the Governor General. Commencement.

2. Bengal Act IV of 1870[c] (the Court of Wards' Act), section 11 of Act XXXV of 1858, sections 12, 14 and 15 of Act XL of 1858,[d] and so much of section 21 of Act XL of 1858 as provides that the civil Court may direct the Collector to take charge of an estate, are hereby repealed. Repeal of Acts.

All persons and properties which at the commencement of this Act are under the charge of the Court of Wards as constituted by Bengal Act IV of 1870 shall be deemed to be under the charge of the Court of Wards as constituted by this Act.

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[a] See *supra*, vol. I, p. 178.
[b] See *supra*, p. 1185.
[c] See *supra*, p. 629.
[d] See *supra*, vol. I, p. 344.

And all persons and properties which at the commencement of this Act are under the charge of the Collector by virtue of an order of the civil Court under section 11 of Act XXXV of 1858, or under section 12, section 14 or section 21 of Act XL of 1858, shall from such commencement be deemed to be under the charge of the Court of Wards.

And all rules prescribed, orders or appointments made, and agreements executed under the Court of Wards' Act, 1870, and now in force, shall (so far as they are consistent with this Act) be deemed to be respectively prescribed, made and executed under this Act.

And all orders and appointments made by Collectors under Act XXXV of 1858 or Act XL of 1858, and now in force, shall (so far as they are consistent with this Act) be deemed to be made under this Act.

And all suits and proceedings now pending, which may have been commenced under the Court of Wards' Act, 1870, or by Collectors under Act XXXV of 1858 or Act XL of 1858, shall be deemed to be commenced under this Act.

Interpretation.

3. In this Act, unless there be something repugnant in the subject or context—

"Collector."

"Collector" includes any officer in charge of the revenue-jurisdiction of a district:

"Court."

"the Court" means the Court of Wards;

or, when the Court of Wards has delegated any of its powers to a Commissioner or Collector or any other person, it means, in respect of such powers, the Commissioner or Collector or person to whom they are delegated:

"Estate."

"estate" means all lands which are borne on the revenue-roll of a Collector as liable for the payment of one and the same demand of land-revenue:

"Minor."

"minor" means a person who has not completed his age of twenty-one years;

"Section."

"section" means a section of this Act:

Ward."

"ward" means any person who is under the charge of the Court of Wards, or whose property is under such charge.

Saving of Act XXXIV of 1858 and of jurisdiction of High Courts.

4. Nothing contained in this Act shall affect any of the provisions of Act XXXIV of 1858, or the jurisdiction, as respects infants, of any High Court of Judicature.

PART II.

CONSTITUTION, JURISDICTION AND POWERS OF THE COURT OF WARDS.

Board of Revenue to be

5. The Board of Revenue shall be the Court of Wards for the territories to which this Act extends.

It shall deal with every person and every property of which it may take or retain charge under this Act, or which may be placed under its charge by order of a competent Court, in accordance with the provisions of this Act. Court of Wards.

6. Proprietors of estates shall be held disqualified to manage their own property when they are— Disqualified proprietors.

(*a*) females declared by the Court incompetent to manage their own property;

(*b*) persons declared by the Court to be minors;

(*c*) persons adjudged by a competent civil Court to be of unsound mind, and incapable of managing their affairs;

(*d*) persons adjudged by a competent civil Court to be otherwise rendered incapable by physical defects or infirmities of managing their own property.

7. Whenever the sole proprietor of an estate, or all the joint proprietors of an estate are disqualified as provided in the last preceding section, the Court shall have power to take charge of all the property of every such proprietor or joint proprietor within its jurisdiction, and of the person of any such proprietor or joint proprietor who is resident within its jurisdiction; and also of the person and property of any minor member of the family of any such proprietor or joint proprietor who has an immediate or reversionary interest in the property of such proprietor or joint proprietor. Jurisdiction of Court over disqualified proprietors.

8. Whenever the circumstances of any ward become such that the Court could not take charge of him or of his property if he were not under its charge already, the Court shall be bound to release from its charge such person and his property. Court when bound to give up charge.

9. The Court may in its discretion, in any case in which it is empowered by this Act to take charge of the person and property of any disqualified proprietor,— Discretion of Court as to taking charge.

(*a*) take charge of such property without taking charge of such person;

(*b*) refrain from taking charge of any such person or property;

(*c*) at any time withdraw from such charge if taken;

(*d*) at any time resume such charge, after having withdrawn from it.

10. Whenever a civil Court thinks it necessary, under section 9 of Act XL of 1858,[a] to make provision for the charge of the person and property of a minor, Procedure under Act XL of 1858, and Act XXXV of 1858.

whenever a civil Court recalls any certificate under section 21 of the said Act,

or whenever a person has been adjudged, under Act XXXV of 1858, to be of unsound mind and incapable of managing his affairs,

[a] See *supra*, vol. I, p. 344.

if the property of such minor or disqualified proprietor consists, in whole or in part, of land or any interest in land, the civil Court may apply to the Court of Wards to take charge of the person and property of such minor or disqualified proprietor; and it shall be at the discretion of the Court of Wards to take charge of such person or property or to refuse to do so.

Nothing contained in sections 12 to 19 (both inclusive) of Act XXXV of 1858 shall be held to apply to persons or properties under the charge of the Court of Wards.

Procedure when estate is no longer under Court because some proprietors have ceased to be disqualified.

11. Whenever one or more of the joint proprietors of whose properties the Court of Wards has taken charge ceases to be subject to the jurisdiction of the Court of Wards, and the persons and properties of the remaining joint proprietors thereby cease to be subject to the jurisdiction of the Court of Wards, notwithstanding the otherwise continued disqualification of such remaining joint proprietors, the civil Court which would have jurisdiction under Act XL of 1858 may, on the application of the Court of Wards, direct the Court of Wards to retain or resume charge of the persons and properties of the still disqualified proprietors during the continuance of their disqualification, or, subject to the provisions of section 12, for so long as such civil Court may order.

And in case any of the proprietors who have ceased to be subject to the jurisdiction of the Court of Wards so consent, the Court of Wards may retain or resume the charge of the properties of such proprietors, or any part thereof, so long as the property of any of the disqualified proprietors remains in charge of the Court of Wards.

Withdrawal from charge by Court.

12. The Court of Wards may at any time withdraw from the charge of any person and property taken under section 10 or under section 11, and from the charge of any person or property which before the commencement of this Act was placed under the charge of the Collector by a civil Court under section 12, section 14 or section 21 of Act XL of 1858, or under section 11 of Act XXXV of 1858;

provided that it shall give notice of its intention to withdraw to the civil Court concerned, and that such notice shall be given not less than two months before the Court of Wards shall so withdraw.

Procedure when succession to property disputed.

13. Whenever, on the death of any ward, the succession to his property or any part thereof is in dispute, the Court may either direct that such property or part thereof be made over to any person claiming such property, or may retain charge of the same until the right to possession of the claimant has been determined under Bengal Act VII of 1876,[a] or until the dispute has been determined by a competent civil Court.

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[a] See *supra*, p. 1103.

General power of Court.

14. Subject to the provisions of this Act the Court—

(*a*) may, through its manager, do all such things requisite for the proper care and management of any property of which it may take or retain charge under this Act, or which may be placed under its charge by order of a competent civil Court, as the proprietor of any such property, if not disqualified, might do for its care and management, and

(*b*) may, in respect of the person of any ward, do all such things as might be lawfully done by the legal guardian of such ward.

Exercise of powers conferred on Court through others.

15. The Court may exercise all or any powers conferred on it by this Act through the Commissioners of the Divisions and the Collectors of the Districts in which any part of the property of the disqualified proprietor may be situated, or through any other person whom it may appoint for such purpose.

Delegation of powers.

The Court may, with the sanction of the Lieutenant-Governor, from time to time delegate any of its powers to such Commissioners or Collectors or other person as aforesaid, and may at any time with the like sanction revoke such delegation.

Establishments and expenses.

16. The Court may from time to time order such establishments to be entertained and expenses to be incurred as it shall consider requisite for the care and management of the persons and properties under its charge, for superintendence, for the audit of accounts, and generally for all purposes of this Act,

and may order that the cost of any such establishment and any such expenses be charged against any one or more properties for the purposes of which they are entertained or incurred.

General contribution for general purposes.

17. The Court may, in respect of such of the establishments and expenses referred to in the last preceding section as are of a general nature, direct that they shall be met by a general contribution from the properties benefited thereby, to be levied in such manner and in such proportion as the Court may from time to time direct.

Power to manage property.

18. The Court may sanction the giving of leases or farms of the whole or part of any property under its charge, and may direct the mortgage or sale of any part of such property, and may direct the doing of all such other acts as it may judge to be most for the benefit of the property and the advantage of the ward.

When Court may order property to be formed into separate estate.

19. If the Court thinks it expedient to direct the sale or mortgage of any part of an estate of which the ward is the sole proprietor, it may order the Collector to partition-off such part into a separate estate, and the demand of land-revenue and of the cesses for which the original estate was liable shall be assessed upon and divided between the two separate estates so formed, respectively, in such manner as the Court, with the sanction of the Lieutenant-Governor, may direct.

Appointment of managers and guardians.

20. The Court may appoint one or more managers for the property of any ward, and one or more guardians for the care of the person of any ward under the charge of the Court, and may control and remove any manager or guardian so appointed.

On any disqualified proprietor becoming a ward, the Court may, at its discretion, confirm or refuse to recognize any appointment of a person to be guardian of such disqualified proprietor, which may have been made by a will.

Custody, education and residence of wards.

21. The Court may make such orders as to it may seem fit in respect of the custody, education and residence of a minor ward, and such minor members of the ward's family as are under its charge, and in respect of the custody and residence of any ward, not being a minor, whose person is under the charge of the Court.

Allowance for ward and his family.

22. The Court shall allow, for the support of each ward and of his family, such monthly sum as it thinks fit (if any) with regard to the rank and circumstances of the parties.

PART III.

Protection from Sale of certain Estates.

Estate under charge of Court exempt from sale.

23. Every estate, and, subject to the provisions of section 14 of Act XI of 1859,[a] every part or share of an estate for which a separate account has been opened under section 10 or section 11 of the said Act, or under section 70 of Bengal Act VII of 1876,[b] shall, whilst it is under the charge of the Court, be exempt from sale for arrears of revenue:

Provided that all arrears of revenue shall be the first charge upon the proceeds of any such estate, part or share, sold for any other cause than for arrears of revenue while under such charge.

Estate belonging to minor not to be sold for arrears of revenue.

24. No estate the sole property of a minor or of two or more minors, and descended to him or them by the regular course of inheritance, or by virtue of the will of, or some settlement made by, some deceased owner thereof, shall be sold for arrears of revenue accruing subsequently to his or their succession to the same, until such minor or one of such minors has completed his age of twenty-one years, but all arrears of revenue shall be the first charge upon the proceeds of such estate if the estate is sold for any other cause during such minority.

But Collector may attach estate.

The Collector may, on an arrear so accruing on any such estate, attach the estate and collect the rents and all arrears of rent due, managing the estate either directly or through a manager or by farming it as he may think fit for a

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[a] See *supra*, vol. I, p. 393.

[b] See *supra*, p. 1103.

period not exceeding ten years, nor extending beyond the time when such minor or one of such minors completes his age of twenty-one years.

When exemption from sale for arrears of of revenue applies.

25. The exemption from sale for arrears of revenue given by section 24 shall only apply to cases in which a written notice of the fact that the estate is the sole property of one or more minors, and entitled to such exemption, has been served on the Collector before the sale.

Application of proceeds of farmed estate.

26. When an estate has been farmed under the provisions of section 24, the proceeds of such farm shall be paid to the Collector, and the Collector, after deducting the amount of the claims of the Government for revenue and other public demands and the charges of management, shall either pay the proceeds to the person authorized to receive them for the proprietor, or shall dispose of them in any of the modes mentioned in section 49 or in section 50.

PART IV.

Ascertainment of Disqualification.

Collector to make enquiry and report as to disqualified proprietors.

27. Whenever any Collector has reason to believe that any person residing in his district, or being the proprietor of an estate borne on the revenue-roll of his district, should be declared or adjudged to be a disqualified proprietor under section 6, he shall make such enquiry as he may deem necessary, and if satisfied that such person should be so declared or adjudged, shall make a report of the same to the Court;

and the Court shall, on receipt of such report, make such order consistent with this Act as may seem to it expedient.

Power to enforce provisions of Act without report.

28. Nothing in section 27 shall prevent the Court or the Local Government from putting the provisions of this Act in force without any report from the Collector.

Proceedings on death of a proprietor whose heirs are disqualified.

29. Whenever any Collector receives information that the sole proprietor of an estate which is borne on the revenue-roll of his district has died,

or that the sole proprietor of any estate has died within his district,

and such Collector has reason to believe that the heirs of such proprietor should be declared or adjudged to be disqualified under section 6, he may take such steps and make such orders for the safety and preservation of the moveable property of such heirs, and of all deeds, documents or papers relating to the property of such heirs, as to him may seem fit.

Such Collector may call upon any other Collector in whose jurisdiction any such moveable property, or any such deeds, documents or papers may be, to take charge of the same, and thereupon such other Collector shall have the same powers with respect to such property, deeds, documents and papers within his district as are conferred by this section on the first-mentioned Collector.

Recovery of expenses.

If the property is not afterwards taken under the charge of the Court, all expenses incurred by a Collector acting under this section shall be recoverable as arrears of revenue from the owner of such property or the person or persons whom the Collector shall find to be in possession of such property, and shall constitute a demand under Bengal Act VII of 1868,[a] or any similar law for the time being in force.

Production of minor proprietor and order for his temporary custody.

30. A Collector acting under the last preceding section may direct that any person who has the custody of a minor heir of any such deceased proprietor shall produce such minor before such Collector or before any other Collector on a day fixed, and the Collector before whom the minor is so produced may make such order for the temporary custody and protection of such minor as to him may seem fit.

If the minor is a female, she shall not be brought into the presence of the Collector, but the Collector may take such steps for her identification as he may think fit.

Enquiry in case of lunatics.

31. If a sole proprietor of an estate who does not reside within the local limits of the ordinary original civil jurisdiction of the High Court is reported by a Collector to be of unsound mind and incapable of managing his affairs, the Court may order the Collector making such report, or such other Collector as the Court may appoint, to apply, in pursuance of the provisions of Act XXXV of 1858, to the civil Court of the district within the jurisdiction of which such proprietor may reside.

Civil Court to make enquiry regarding disqualification on ground of physical defect or infirmity.

32. If a sole proprietor of an estate who does not reside within the local limits of the ordinary original civil jurisdiction of the High Court is reported by a Collector to be incapable of managing his property on the ground of some physical defect or infirmity other than unsoundness of mind, the Court may order the Collector making such report, or such other Collector as the Court may appoint, to apply to the principal civil Court of the district within which such person may be residing; and upon such Collector so applying, such civil Court shall enquire into and determine the question as to the alleged incapacity.

Proceedings in case of physical defect or infirmity when proprietor in jurisdiction of High Court.

33. If a sole proprietor of an estate who is resident within the local limits of the ordinary original civil jurisdiction of the High Court of Judicature at Fort William in Bengal, or resident beyond the territories administered by the Lieutenant-Governor of Bengal, shall be reported by a Collector to be incapable of managing his property by reason of some physical defect or infirmity other than unsoundness of mind, the Court may order the Collector making such report, or such other Collector as the Court may appoint, to apply to the principal civil Court of the 24-Parganas, or to such other civil Court as the

[a] See *supra*, p. 582.

Lieutenant-Governor, on application made to him by the Collector in that behalf, may determine.

Such civil Court shall thereupon enquire into and determine the question as to the alleged incapacity.

Powers of civil Court when enquiry is instituted under section 32 or 33.

34. When any enquiry is instituted by a civil Court under section 32 or section 33, such Court shall, for the purposes of making such enquiry, have the powers conferred, and proceed in the manner prescribed, by Act XXXV of 1858 with respect to the enquiries directed to be made by the said Act.

The civil Court shall transmit to the Court of Wards a copy of the order made on each such enquiry, and the Court of Wards shall thereupon, in case the proprietor has been found by the civil Court to be incapable as aforesaid, make such order, consistent with this Act, as it shall think fit.

The civil Court shall have, with reference to proprietors who have been adjudged to be incapable as aforesaid, the same powers as are conferred on a civil Court by section 21 of Act XXXV of 1858, with reference to persons adjudged to be of unsound mind and incapable of managing their affairs.

PART V.

Procedure after ascertainment of Disqualification.

Order declaring estate under charge of Court.

35. Whenever the Court has determined to take the person or property of a disqualified proprietor under its charge, whether in accordance with an order of the civil Court or otherwise, the Court shall make an order declaring the fact and directing that possession be taken of such person and property or of such property on behalf of the Court, and the Court shall be held to be in charge of such property from the time when possession shall have been so taken.

Collector to take possession of moveable property.

36. As soon as conveniently may be after an order is made under the provisions of section 35, the Collector of every district within which any part of the ward's property may be situated, or some person anthorized in writing by him in that behalf, shall take possession of all accounts, papers and moveable property of the ward, and place under proper custody such portion thereof as he may think necessary.

Any such Collector, or some person authorized as aforesaid, may, in case he has reason to believe that any such account, paper or property is in any room, box or receptacle within any house in the actual possession of the ward, break open the same for the purpose of searching for such account, paper or property.

Additional

37. Any such Collector may also order all persons in the employ of the

powers of Collector.

ward or all persons who were in the employ of the deceased proprietor from whom the ward has derived his property, to attend before him,

and may order any person to deliver up any accounts, papers or moveable property belonging to the ward, or any accounts or papers relating to the ward's property, which the Collector has reason to believe are in such person's possession,

and may order all holders of tenures and under-tenures on such property to produce their titles to such tenures and under-tenures.

PART VI.

MANAGEMENT AND GUARDIANSHIP.

Collector when to be deemed manager.

38. If no manager of the property of a ward is appointed by the Court, the Collector of the district in which the greater part of such property is situated, or any other Collector whom the Court may appoint in that behalf, shall be competent to do, under the orders of the Court, anything that might be lawfully done by the manager of such property.

Powers of manager.

39. Every manager appointed by the Court shall have power to manage all property which may be committed to his charge, to collect the rents of the land entrusted to him, as well as all other money due to the ward, and to grant receipts therefor;

and may, under the orders of the Court, grant or renew such leases and farms as may be necessary for the good management of the property.

General duty of manager.

40. Every manager shall manage the property committed to him diligently and faithfully for the benefit of the proprietor, and shall in every respect act to the best of his judgment for the ward's interest as if the property were his own.

Specific duties of manager.

41. Every manager appointed by the Court shall—

(*a*) have the care of so much of the property of the ward as the Court may direct;

(*b*) give such security (if any) as the Court thinks fit to the Collector duly to account for all such property, and for what he shall receive in respect of such property;

(*c*) continue liable to account to the Court, after he has ceased to be manager, for his receipts and disbursements during the period of his management;

(*d*) pass his accounts at such periods and in such form as the Court may direct;

(*e*) pay the balance due from him thereon;

(*f*) apply for the sanction of the Court to any act which may involve the property in expense not previously sanctioned by such Court;

(*g*) sign all papers, deeds, documents and writings which may be executed by him by virtue of his office;

(*h*) be entitled to such allowance, to be paid out of the property as the Court may think fit for his care and pains in the execution of his duties;

(*i*) be responsible for any loss occasioned to the property by his wilful default or gross negligence.

General duty of guardian.

42. A guardian appointed to the care of a ward shall be charged with the custody of the ward, and must look to his maintenance, health, and, if he be a minor, to his education.

Specific duties of guardian.

43. Every guardian appointed by the Court shall—

(*a*) give such security (if any) as the Court thinks fit to the Collector for the due performance of his duty;

(*b*) pass his accounts at such periods and in such form as the Court may direct;

(*c*) pay the balance due from him thereon;

(*d*) continue liable to account to the Court, after he has ceased to be guardian, for his receipts and disbursements during the period of his guardianship;

(*e*) apply for the sanction of the Court to any act which may involve expense not previously sanctioned by the Court;

(*f*) be entitled to such allowance to be paid out of the property of the ward as the Court may think fit for his care and pains in the execution of his duties.

No person to be guardian who can succeed to ward.

44. No person who would be the next legal heir of a ward, or would otherwise be immediately interested in outliving a ward, shall be appointed to be his guardian;

but nothing in this section shall apply to the mother of a ward, or to a testamentary guardian.

Guardian of female ward.

45. If the ward is a female, a female of the same religion shall, except in the case of a testamentary guardian, be appointed guardian, preference being given to female relatives if any such be eligible.

But no guardian shall ordinarily be appointed or continued for a female ward if she has an adult husband.

Sums due recoverable as demands.

46. Every sum due to the Court from a manager or guardian, or from the sureties of a manager or guardian, or from any officer or servant employed under the Court or from the sureties of any such officer or servant, shall be

recoverable as a demand under Bengal Act VII of 1868,[a] or any similar law for the time being in force.

Court may order guardian or manager to make over property.

47. The Court may order any past or present manager or guardian, or past or present officer subordinate to a manager or guardian, to deliver up his accounts or any property which may be in his possession within such time as may be fixed by the Court.

Application of moneys received by manager.

48. All moneys received by the manager shall, in the first instance, be applied as the Court may direct according to circumstances,

in payment of the allowance fixed for the support and education of the ward and his family, and of all charges of management and supervision;

in or towards the discharge of the instalments of Government-revenue and of all cesses and other public demands from time to time due in respect of such property.

Application of surplus.

49. Whenever upon the accounts a *bonâ fide* surplus is shewn after making the payments mentioned in section 48, such surplus shall be applied as the Court may direct according to the circumstances of the property concerned—

in liquidation of debts payable by the ward;

in payment of such religious, charitable and other allowances as were paid out of the proceeds of the property before it came under the charge of the Court, and such allowances and donations befitting the position of the ward's family as the Court may authorize to be paid;

in the improvement of the lands or otherwise for the benefit of the ward or his property:

Amount expended on improvement not to exceed ten per cent. of surplus.

Provided that the amount expended on such improvement and for such benefit shall not exceed ten per centum of the said surplus, unless, in the opinion of the Court and the Lieutenant-Governor, it is desirable, for the protection of the lands, or in the interest of the ward or his property, to expend an amount exceeding such percentage:

Surplus to be made over to female and major whose property remains under the charge of the Court.

Provided also that if the ward is a female of sound mind, who has completed her age of twenty-one years, or a person who has completed his age of twenty-one years, and whose property remains under the charge of the Court with his consent, no part of the surplus shall be expended by the Court otherwise than in the liquidation of debts or in the improvement of the lands or property as aforesaid, and the remainder of the surplus shall be paid to such female or person.

Power to invest surplus.

50. If the ward is not a female or person as aforesaid, and if any surplus remains after providing so far as the Court may think fit for the objects

[a] See *supra*, p. 582.

mentioned in section 49, the same shall be applied in the purchase of other landed property, or invested at interest on the security of—

promissory notes, debentures, stock and other securities of the Government of India, or of the United Kingdom of Great Britain and Ireland ;

bonds, debentures and annuities charged by the Imperial Parliament on the revenues of India ;

stock or debentures of or shares in railway or other companies, the interest whereon has been guaranteed by the Secretary of State for India in Council ;

debentures or other securities for money paid by or on behalf of any municipal body under the authority of any Act of a legislature established in British India ;

or such other securities, stocks or shares, guaranteed by the Government of India or the Government of Bengal, as to the Court shall seem fit.

PART VII.

SUITS.

Manager or Collector to be next friend or guardian in suits by or against ward.

51. In every suit brought by or against any ward he shall be therein described as a Ward of Court ; and the manager of such ward's property, or if there is no manager, the Collector of the district in which the greater part of such property is situated, or any other Collector whom the Court of Wards may appoint in that behalf, shall be named as next friend or guardian for the suit, and shall in such suit represent such ward, and no other person shall be ordered to sue or be sued as next friend or be named as guardian for the suit by any civil Court in which such suit may be pending.

Court may substitute another person to be next friend or guardian for suit.

52. The Court of Wards may by an order nominate or substitute any other person to be next friend or guardian for any such suit ; and upon receiving a copy of any such order of substitution, the civil Court in which such suit is pending shall substitute the name of the next friend or guardian for the suit so appointed for the name of the manager or Collector.

Payment of costs.

53. If in any such suit any civil Court shall decree any costs against the next friend or guardian for the suit of the ward, the Court of Wards shall cause such costs to be paid out of any property of the ward which for the time being may be in its hands.

Process against wards to be served through Court.

54. Every process which may be issued out of any civil Court against any ward shall be served, through the Collector, upon the next friend or guardian for the suit as aforesaid of such ward.

Suits not to be brought on behalf of wards unless

55. No suit shall be brought on behalf of any ward, unless the same be authorized by some order of the Court :

provided that a manager may authorize a plaint to be filed in order to pre-

authorized by the Court.

vent a suit from being barred by the law of limitation, but such suit shall not be afterwards proceeded with except under the sanction of the Court:

provided also that suits for arrears of rent may be brought on behalf of any ward if authorized by an order of the manager of the landed property on which such rents are due.

Saving of suits in High Court, and of persons who consent to remain wards.

56. Nothing contained in this Part shall apply to any suit instituted or pending in the High Court, or to a proprietor who has consented to leave his property under the charge of the Court of Wards, as provided in the second clause of section 11.

PART VIII.

PENALTIES.

For disobeying certain orders of Collector.

57. Any person who refuses to comply with an order of a Collector under section 29, 30, 36 or 37, shall be liable, by order of the Collector, to a fine not exceeding five hundred rupees.

For disobeying orders under section 47.

58. Any person who refuses to comply with an order made under section 47 may be punished, by order of the Court, with simple imprisonment and attachment of his property until the order is complied with.

For disobeying order of Court.

59. Any person who disobeys any lawful order of the Court shall be liable, on conviction before a Magistrate, to a fine not exceeding five hundred rupees, and if he is a manager or guardian appointed by the Court, to a fine not exceeding one thousand rupees.

PART IX.

MISCELLANEOUS.

Disabilities of wards.

60. No ward shall be competent to create, without the sanction of the Court, any charge upon, or interest in, his property or any part thereof.

Adoption by ward invalid without consent of Lieutenant-Governor.

61. No adoption by any ward, and no written or verbal permission to adopt given by any ward, shall be valid without the consent of the Lieutenant-Governor, obtained either previously or subsequently to such adoption, or to the giving of such permission, on application made to him through the Court.

Exception as to persons who consent to remain wards.

62. Nothing contained in section 60 or in section 61 shall apply to a proprietor who has consented to leave his property under the charge of the Court, as provided in the second clause of section 11.

Arrears of rent how recoverable.

63. All arrears of rent due by farmers, under-tenants and raiyats, in respect of property under the charge of the Court (whether such rents have become due before or after the Court has taken charge), shall be recoverable as arrears

of revenue, and shall constitute a demand under Bengal Act VII of 1868,[a] or any similar Act for the time being in force.

The last preceding clause shall not apply to arrears of rent enhanced after issue of notice under section 13 of Act X of 1859,[b] or under section 14 of Bengal Act VIII of 1869,[c] but of which the enhancement has not been agreed to by the person who is liable to pay the same, or has not been confirmed by a competent Court.

Collector or Court to record reasons of penalties.

64. When any penalty is imposed by any order under section 57 or section 58, the Collector or Court passing such order shall make a formal record of the same with the reasons or grounds thereof.

Procedure when Court's jurisdiction ceases.

65. Whenever the Court has determined to release the property of a ward from its charge, it shall make an order that the jurisdiction of the Court over such property shall cease on a date not more than sixty and not less than fifteen days from the date of such order; and copies of such order shall be published as the Court may direct.

Powers of Collector in making enquiries.

66. A Collector making any enquiry under this Act may exercise any power conferred by the Code of Civil Procedure on a civil Court for the trial of suits.

Appeals.

67. An appeal shall lie from every order of a Collector under this Act to the Commissioner of the Division, and from every order of a Commissioner under this Act to the Court.

Control of Court.

68. All orders or proceedings of the Commissioner and of the Collector under this Act shall be subject to the supervision and control of the Court, and the Court may, if it thinks fit, revise, modify or reverse any such order or proceeding whether an appeal is presented against such order or proceeding or otherwise.

Control of Lieutenant-Governor.

69. In the exercise of the powers and in the discharge of the duties conferred and imposed respectively on the Court by this Act, the Court shall be guided by such orders and instructions as it may from time to time receive from the Lieutenant-Governor.

Power to Court to make rules.

70. The Court may make rules consistent with this Act—

(*a*) defining the powers of Commissioners and Collectors respectively when the property of a ward is situated in two or more districts or in two or more divisions;

(*b*) prescribing what reports shall be made from time to time by Collectors and Commissioners on the condition of the ward and his property;

[a] See *supra*, p. 582. [b] See *supra*, vol. I, p. 356. [c] See *supra*, p. 602.

(*c*) prescribing the periods at which and the mode in which accounts shall be submitted by managers and guardians respectively, and the mode in which such accounts shall be audited;

(*d*) regulating the custody of securities and title-deeds belonging to the estate or property of a ward;

(*e*) regulating the procedure in appeals from orders of Collectors and Commissioners respectively under this Act;

(*f*) prescribing the procedure to be observed when a property ceases to be under the charge of the Court;

(*g*) and, generally, for the better fulfilment of the purposes of this Act.

The Court may from time to time alter, add to, or repeal, such rules.

PART IV:

REGULATIONS MADE UNDER THE THIRTY-THIRD OF VICTORIA, CAP. 3.[a]

REGULATION No. III OF 1872.

A Regulation for the peace and good government of the territory known as the Sontal Parganas.

[*Published in the Gazette of India of 4th of May 1872, p. 468, and in the Calcutta Gazette of 8th of May 1872, p. 2056.*]

Short title.

1. This Regulation may be called the Sontal Parganas' Settlement Regulation.

Local extent.

2. It extends to the whole of the Sontal Parganas as described in the schedule attached to Act X. of 1857 and in the notification of the Governor General in Council, No. 478, dated 12th March 1872. It shall come into force on the first day of May 1872. It shall be read with Act XXXVII of 1855 and Act X of 1857.

Enactments extended to Sontal Parganas.

3. Subject to the provisions of this Regulation, the Regulations and Acts mentioned in the schedule annexed to this Regulation, or such portions of them as are unrepealed, shall be deemed to be in force in the Sontal Parganas.

No other Regulations or Acts shall be deemed to be in force in the Sontal Parganas except so far as regards the trial and determination of the civil suits mentioned in section 2, Act XXXVII of 1855, in which the matter in dispute exceeds the value of rupees 1,000, when such suits are tried in the Courts established under Act VI of 1871.

In addition to the Regulations and Acts mentioned in the schedule, the Lieutenant-Governor of Bengal may, by a notification in the *Calcutta Gazette*, direct that any other Bengal Regulation, or any other Act passed by the Governor General of India in Council, or by the Lieutenant-Governor of Bengal in Council, or any part of any such Regulation or Act, shall have

[a] Extended by Resolution of the Secretary of State for India in Council, dated 29th February, 1872 to the Sontal Parganas.

force and effect in the Sontal Parganas, and may, by a similar notification, declare that any Regulation or Act, or part of a Regulation or Act, which may have been, or may be, introduced by him, shall no longer have force and effect in the Sontal Parganas.

Power to invest officers with civil Court powers.

4. The Lieutenant-Governor of Bengal may, by notification in the *Calcutta Gazette*, invest any competent officer in the Sontal Parganas with the powers of any civil Court established under Act VI of 1871,[a] and may exlcude the whole or any part of the said parganas from the jurisdiction of any of the Courts established under the said Act now having jurisdiction therein.

Nothing in sections 3 to 9 (inclusive), 32, 33 and 34 of the said Act applies to any officer invested with the powers of a Court under this section; but all the other provisions of the said Act apply, *mutatis mutandis*, to officers so invested.

Jurisdiction as to certain suits until settlement completed.

5. Till such time as a settlement of the whole or any part of the Sontal Parganas shall be made under the rules hereinafter provided, and the said settlement shall be declared by a notification in the *Calcutta Gazette* to have been completed and concluded, no suit shall lie in any Court established under the said Act VI of 1871 in regard to any land or any interest in, or arising out of, any land, or for the rent or profits of any land, or regarding any village-headship or other office connected with the land, except as hereinafter provided; but such suits shall be heard and determined by the officers appointed by the Lieutenant-Governor of Bengal under section 2 of the said Act XXXVII of 1855, or by the Settlement-officers hereinafter mentioned, according as the said Lieutenant-Governor shall from time to time direct:

Provided that, if it shall appear to any officer empowered to try any such suit to be just and expedient that such suit, or that any issue arising in such suit, should be tried by the Court established under the said Act VI of 1871 which would have had jurisdiction if this provision had not been made, he may (subject to the direction and control of the officers to whom he is subordinate), either on the prayer of the parties or on his own motion, make a certificate to that effect and transfer the record, if any, to the said Court.

On the receipt of such certificate the said Court may proceed to try and determine such suit or issue under the same rules and in the same manner as if the suit had been originally instituted therein.

On the decision of such suit or issue the Court shall certify its decision to the officer by whom the certificate was made, who shall thereupon apply or execute such decision.

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[a] See *supra*, p. 428.

Usury.

6. All Courts having jurisdiction in the Sontal Parganas shall observe the following rules relating to usury, namely:—

(*a*) interest on any debt or liability for a period exceeding one year shall not be decreed at a higher rate than two per cent. per mensem, notwithstanding any agreement to the contrary, and no compound interest arising from any intermediate adjustment of account shall be decreed:

(*b*) the total interest decreed on any loan or debt shall never exceed one-fourth of the principal sum, if the period be not more than one year, and shall not in any other case exceed the principal of the original debt or loan.

Exemption of agreements from stamp-duty.

7. Agreements between cultivators or headmen of villages and the persons to whom rent is payable by them, respecting such rent or regulating their respective rights in the land for which such rent is payable, shall not be liable to any stamp.

Court Fees Act not applicable to certain suits.

8. The Court Fees Act, 1870, shall not be applicable to any suit or other proceeding before any officer making a settlement, or before any officer appointed under Act XXXVII of 1855, and regarding any matter which he is authorized to adjudicate in anticipation of settlement under section 26 of this Regulation.

Power to order settlement.

9. The Lieutenant-Governor may, by notification in the *Calcutta Gazette*, declare that a settlement shall be made of the whole or any part of the Sontal Parganas for the purpose of ascertaining and recording the various interests and rights in the lands.

Power to appoint Settlement-officers.

10. The Lieutenant-Governor may appoint the officers by whom the settlement is to be made, and may invest any officer or officers with the control over them by way of appeal and revision, and may make rules for the procedure of such officers in the investigation into rights in the land and the hearing of suits, and generally for the guidance of such officers.

The Lieutenant-Governor may reserve to himself an ultimate power of revision in respect of any cases decided in any Settlement Court.

Bar to jurisdiction of civil Courts.

11. Except as provided in section 25, no suit shall lie in any civil Court regarding any matter decided by any Settlement Court under these rules; but the decisions and orders of the Settlement Courts made under these rules, regarding the interests and rights above-mentioned, shall have the force of a decree of Court.

Inquiry into landed rights.

12. The Settlement-officers shall have power to inquire into, to decide and to record the rights of the zamíndárs and other proprietors, the rights of the tenants or raiyats, the rights of the mánjhís or other headmen as against both the proprietors and the tenants, and also any other landed rights to which, by the law or custom of the country or of any tribe, any person may have legal or equitable claim:

Provided that no claim shall be heard to any rights or interests of which the claimant has not held possession either himself or through persons from whom he claims at some time since the first day of January 1859.

Form of record-of-rights.

13. The record-of-rights to be prepared by a Settlement-officer shall show the nature and incidents of each right and interest held by each class of occupiers or owners in a village; or, if need be, of each individual owner, occupier or headman in a village.

Notice when record-of-rights about to be prepared.

14. The Settlement-officer shall give due notice to the people of a village for which he is about to prepare a record-of-rights, so that all persons interested may bring forward their claims either in writing or by verbal application.

But the Settlement-officer shall inquire into, settle and record all rights in, or claims to, the lands of a village of which he is preparing a record-of-rights, even though such claims or rights may not be urged by the parties interested.

Demarcation of excess waste.

15. The Settlement-officer shall demarcate and define the boundaries of each village, and, when doing so, he may exclude from such village any large area of waste or forest which may be beyond the reasonable requirements of the village:

Provided that no block of waste-land or forest of which the people of the village have hitherto had the use shall be excluded from such village if before such exclusion one-third of the total area of the village is cultivated or is fallow in due course of agricultural rotation, according to the practice of the country.

The exclusion of any waste-land from any village under this provision shall not affect any proprietary rights in the land, but such rights shall remain intact.

Review of decisions regarding rights of village-headmen.

16. Any decision regarding the rights of the mánjhís or other village-headmen, passed by any officer appointed under Act XXXVII of 1855, which may on due enquiry be found by the Settlement-officer to have been passed under a misapprehension as to the laws in force in the Sontal Parganas, or without sufficient inquiry into, and regard for, the customs of the country and of the people, may be reviewed and modified by such Settlement-officer.

Mánjhís or village-headmen.

17. In deciding the status, rights and claims of mánjhís or other village-headmen, the Settlement-officer shall have regard to the following rules:—

(*a*) Any mánjhí or other headman of a village, who may have lost his office, or the management of his village, for whatever cause, or in whatever manner, on any date after the thirty-first December 1858, shall be eligible for reinstatement in such headship, and in the lease or management of the village, if he has a fair and equitable claim thereto:

(*b*) No claim to be recorded as mánjhí or headman with an occupancy-

right in the lease or management of a village shall be conclusively shut out by reason of the claimant having been described as a mustájir or farmer in any deed to which such claimant may have been a party:

(*c*) If the rent now payable by any mánjhí or headman of a village appear to the Settlement-officer inequitable, by reason that such person has rights independent of contract, or that he was not in a position fairly and freely to contract, the Settlement-officer may modify and abate such rent and fix a fair and equitable rent.

If the rent appears to the Settlement-officer to be too low, he may enhance such rent either immediately or prospectively on the termination of any existing agreement.

The rent payable by any mánjhí, farmer or other headman of a village shall be determined on a consideration of the rates of rent payable in the neighbourhood, and of the number of ploughs at work in the village, and of such other matters as may appear to the Settlement-officer to afford ground for an equitable decision.

If necessary, the cultivated and uncultivated land in such village may be measured.

18. In deciding the status, rights and claims of raiyats or occupiers, the Settlement-officer shall have regard to the following rules:— Rights of raiyats or cultivators.

(*a*) Any raiyat who may, either himself or through persons from whom he inherits, have held fields in a village for a period of 12 years shall be deemed to have occupancy-rights in such fields:

(*b*) Any raiyat who, having possessed a right of occupancy or an equitable claim to occupancy, has lost possession of his land or any portion of his land since the thirty-first day of December 1858, may claim to be replaced in possession of such land, and to be recorded as possessing occupancy-rights therein, if in the opinion of the Settlement-officer he is justly entitled thereto:

(*c*) Any raiyat who has exchanged fields for other fields in the same village shall be held to have acquired an occupancy-right in the fields taken in exchange in the same manner as if no exchange had taken place:

(*d*) Where raiyats holding lands under a mánjhí or other headman of a village pay their share of the village-rent according to any fixed custom or proportion, or where the share of rent payable by each raiyat is fixed annually or periodically by the village-elders or in any other way, the existence of such custom shall be recorded:

(*e*) When the raiyats of any village pay rent either direct to the proprietor or to his agent, or to any farmer, or to a mánjhí, the Settlement-officer shall record such rents if they are fair and equitable.

If such rent appear to the Settlement-officer to be unfair and inequitable,

he shall inquire into and shall re-settle such rents; and he may make such re-settlement of rents, either according to the number of ploughs owned by each raiyat, or according to the area of the cultivated land held by him, or in any other manner which may be customary and equitable.

Term for rents.

19. The rents of both headmen and raiyats, when adjusted and recorded by the Settlement-officer, shall remain unchanged for not less than seven years from the time of such adjustment and record, and thenceforward until a fresh settlement or agreement be made.

Special considerations in adjusting rents.

20. In adjusting rents as between proprietors and mánjhís or other headmen, and between proprietors, farmers or headmen and raiyats, the Settlement-officer may, in connection with other circumstances, have regard to the agricultural skill and habits of life of the class or tribe to which the rent-payers may belong.

Settlement of rent of land reclaimed from forest or waste.

21. In any case in which the headmen or the raiyats or the persons through whom they claim reclaimed the land from forest or waste, regard shall be had to such fact in settling the rents.

Instalments of rent.

22. The Settlement-officer shall decide, and shall enter in the village-record-of-rights, the several instalments of yearly rent and the dates on which such instalment shall be payable by the raiyats and by the mánjhís or headmen.

If the number and dates of the existing instalments press hardly upon the people of any village, the Settlement-officer shall have power to reduce the number and alter the dates of such instalments.

The amount and dates of the instalments shall remain unaltered until otherwise ordered by the Lieutenant-Governor.

Record of village-customs.

23. For every village shall be drawn up a paper setting forth the custom of the village or tribe in regard to the following facts:—

(*a*) the existence of the office of mánjhí or other village-headship and the duties and emoluments of each headman, and the customs of succession to the headship by inheritance, election or otherwise:

(*b*) the removal or suspension of a headman for misconduct, and the appointment or election to a vacant headship:

(*c*) the devolution of the lands held by proprietors or under-proprietors or headmen or cultivated by raiyats, any custom contrary to the ordinary Hindú or Muhammadan law being noted:

(*d*) the tenure of houses in the village, and the payment of ground-rents and dues by non-cultivating residents:

(*e*) the duties and dues of village-watchmen and other village-servants and their succession to, and removal from, office:

(*f*) the management and usufruct of the waste-land, and other matters relating to the internal arrangement of villages.

24. After the Settlement-officer shall have made the record-of-rights for any village, he shall notify and publish the contents of such record to the persons interested by posting it conspicuously in the village and otherwise in such manner as may be convenient. Publication of record-of-rights.

Any person interested shall thereupon be allowed to bring forward in the original or appellate Settlement Courts any objection he may desire to make to any part of such record: and the objection so made shall be inquired into and disposed of by a decision in writing under the hand of the officer presiding in the Court before which such objection may be urged or brought on appeal or otherwise. Objections against such record.

25. After a period of a year from the date of the publication of the record-of-rights of any village, such record shall be conclusive proof of the rights and customs therein recorded, other than the rights mentioned in the latter part of this section, except so far as concerns entries in such record regarding which objections by parties interested may still be pending. Record to be final after a year's publication.

When a record-of-rights shall have become final, or an objection to any entry in a record-of-rights shall have been finally disposed of by the Settlement Courts, such record shall not be re-opened or modified, save as provided by the customs of the village, without the previous sanction of the Lieutenant-Governor of Bengal.

But in case of the discovery of material error, it shall be lawful for the said Lieutenant-Governor to direct, by a writing under his hand, that the record of any village shall be revised.

The Courts established under Act VI of 1871 are empowered to find and determine the rights of zamíndárs and other proprietors as between themselves, if any suit affecting such rights be pending at the time when this Regulation shall come into operation, or if a suit or issue be referred to the Court under the provisions of section 5, or if a suit be brought to contest the finding or record of the Settlement-officer within three years from the date of the said publication or of the final order of the Revenue Court.

But no such suit shall be brought in any Court after the expiration of three years from such date.

If in any such suit it shall be found that the finding of the Settlement-officer is erroneous, the record shall be amended accordingly.

26. Pending the completion of a settlement under this Regulation, the officers of the Sontal Parganas appointed under section 2, Act XXXVII of 1855, may, if the Lieutenant-Governor shall so direct, take up and decide under this Regulation, either on their own motion or at the request of the parties, any suit for rent or arrears of rent, or any claim for enhancement or abatement of rent, or any complaint of exaction or improper ouster from land or offices. District officers may take up land-cases,

Decisions regarding rates of rent or the possession of land or offices passed by these officers under this section shall remain in force until such time as the record-of-rights for the village or villages to which such decision may refer shall be prepared.

and pass provisional orders.

The said officers shall also have power to pass such provisional orders as they may deem required for the maintenance of peace and order in the Sontal Parganas on all matters referred to in sections 5, 9, 10 and 12 to 24 of this Regulation: all such provisional orders shall have the force of a decision of Settlement-officers under these Regulations until such time as the record-of-rights shall have been prepared, or the matter shall have been decided by a Settlement Court.

SCHEDULE OF REGULATIONS AND ACTS IN FORCE IN THE SONTAL PARGANAS SO FAR AS THEY ARE UNREPEALED.

(*See section 3*).

Regulations of the Bengal Code.

I of 1793	I of 1801	XII of 1817
VIII of 1793	X of 1804	III of 1818
XIV of 1793	XI of 1806	I of 1819
XIX of 1793	XVII of 1806	II of 1819
XXXVII of 1793	XX of 1810	VIII of 1819
XXXVIII of 1793	XI of 1811	I of 1820
XLVIII of 1793	V of 1812	VII of 1823
III of 1794	XI of 1812	VI of 1825
XV of 1797	XVIII of 1812	XI of 1825
I of 1798	XIX of 1814	XIII of 1825
VII of 1799	XXIX of 1814	XIV of 1825
VIII of 1800	V of 1817	XVII of 1829

Acts of the Governor General of India in Council.

XX of 1836	XXXIV of 1850	XXI of 1856
XXI of 1836	XXXVII of 1850	X of 1857
IV of 1837	VIII of 1851	XIII of 1857
XI of 1838	V of 1852	III of 1858
XII of 1841	II of 1853	XXXI of 1858
V of 1843	VI of 1853	V of 1859
IX of 1847	XVIII of 1854	XI of 1859
XX of 1848	XIII of 1855	XIV of 1859
XII of 1850	XXIV of 1855	VIII of 1860
XVIII of 1850	XXVI of 1855	IX of 1860
XXI of 1850	XXXVII of 1855	XXIII of 1860
XXV of 1850	XI of 1856	XXXI of 1860
XXXIII of 1850	XV of 1856	XLV of 1860

Acts of the Governor General of India in Council—contd.

XVI of 1863	II of 1869	V of 1871
III of 1864	IV of 1869	VII of 1871
XV of 1864	V of 1869	VIII of 1871
III of 1865	XV of 1869	IX of 1871
V of 1865	XVIII of 1869	XII of 1871
X of 1865	XX of 1869	XXIII of 1871
XI of 1865	XXI of 1869	XXIV of 1871
VI of 1866	VII of 1870	XXV of 1871
XIV of 1866	X of 1870	XXVI of 1871
XXI of 1866	XIII of 1870	I of 1872
VII of 1867	XX of 1870	III of 1872
XXIV of 1867	XXI of 1870	VIII of 1872
XXV of 1867	XXIII of 1870	IX of 1872
XXXI of 1867	XXVII of 1870	X of 1872
I of 1868	III of 1871	XI of 1872

Acts of the Lieutenant-Governor of Bengal in Council.

III of 1862	VII of 1864	V of 1867
VII of 1862	IV of 1865	IV of 1868
VIII of 1862	V of 1865	VII of 1868
II of 1864	VIII of 1865	II of 1870
IV of 1864	III of 1866	

REGULATION No. V OF 1873.

A Regulation for the peace and government of certain Districts on the Eastern Frontier of Bengal.

[*Published in the Gazette of India of 16th of August 1873, p. 733, and in the Calcutta Gazette of 27th of August 1873, p. 1000.*]

Preamble.

WHEREAS the Secretary of State for India in Council has by Resolution in Council declared the provisions of Act 33 Vic., cap. 3, section 1, to be applicable to the Districts of Kámrúp, Darrang, Naugong, Síbságar, Lakhimpur, Gáro Hills, Khásí and Jaintíá Hills, Nágá Hills, Káchár and Chittagong Hills;

And whereas the Lieutenant-Governor of Bengal has proposed to the Governor General in Council a draft of the following Regulation, together with the reasons for proposing the same, for the peace and government of the said districts;

And whereas the Governor General in Council has taken such draft and reasons into consideration, and has approved of such draft, and the same has received the Governor General's assent;—

The following Regulation is now published in the *Gazette of India*, and

will be published in the *Calcutta Gazette*, and will thereupon have the force of law, under the thirty-third of Victoria, chapter 3 :—

Local extent.

1. This Regulation shall extend to the districts named in the preamble, and shall come into force on the first of November 1873.

Power to prescribe and alter inner line.

2. It shall be lawful for the Local Government of Bengal, with the previous sanction of the Governor General in Council, to prescribe, and from time to time to alter, by notification in the *Calcutta Gazette*, a line to be called "The Inner Line" in each or any of the above-named districts.

The Local Government may, by notification in the *Calcutta Gazette*, prohibit all British subjects, or any class of British subjects, or any persons residing in or passing through such districts from going beyond such line without a pass under the hand and seal of the chief executive officer of such district, or of such other officer as he may authorize to grant such pass; and the Local Government may from time to time cancel or vary such prohibition.

Penalty for crossing line without pass.

3. Any British subject or other person so prohibited, who, after "The Inner Line" has been prescribed and notified in accordance with section 2 of this Regulation, goes beyond such line without a pass, shall be liable, on conviction before a Magistrate, to a fine not exceeding rupees 100 for the first offence, and to a fine not exceeding rupees 500, or to simple or rigorous imprisonment for a term not exceeding three months, or to both, for each subsequent offence.

Power to prescribe form of pass.

4. The Local Government may from time to time prescribe by notification in the *Calcutta Gazette* a form of pass for each district, and may in such form fix such restrictions or conditions as the Local Government may deem fit, and may require the payment of such dues and fees for such passes as to the Local Government may seem proper.

Any holder of such a pass shall, on breach of any such restriction or condition, be liable on conviction to a fine not exceeding rupees 100 for a first offence, and to a fine not exceeding rupees 500, or to simple or rigorous imprisonment, which may extend to three months, or to both, for each subsequent offence.

Confiscation of jungle-product found with offender.

5. Any rubber, wax, ivory or other jungle-product found in the possession of any person convicted of an offence under this Regulation, may be confiscated to Government by an order to be passed at the time of conviction by the Magistrate.

Power to authorize arrest.

6. The chief executive officer of any district comprised in any notification as aforesaid may, subject to the approval of the Local Government, authorize, by a written instrument under his hand, any public servant to arrest and bring before him with the least practicable delay—

firstly, any person prohibited from crossing "The Inner Line" prescribed for such district, if such person shall be found beyond the line,

and when asked to produce his pass shall refuse or be unable so to do :

secondly, any person to whom a pass may have been granted, and who has committed any infraction of its conditions.

Acquisition of interest in land by other than Native of districts comprised in preamble.

7. It shall not be lawful for any British subject or other person, not being a Native of the districts comprised in the preamble of this Regulation, to acquire any interest in land or the product of land beyond the said "Inner Line" without the sanction of the Local Government or such officer as the Local Government shall appoint in this behalf.

Any interest so acquired may be dealt with as the Local Government or its said officer shall direct.

The Local Government may also, by notification in the *Calcutta Gazette*, extend the prohibition contained in this section to any class of persons, Natives of the said districts, and may from time to time in like manner cancel or vary such extension.

Penalty for illegal killing or capture of elephants.

8. Whoever, without the written permission of an officer authorized by the Local Government to grant such permission, kills or captures, or attempts to kill or capture, or abets, within the meaning of the Indian Penal Code, the killing or capturing of, a wild elephant in any of the districts to which this Regulation extends, shall be liable to a fine not exceeding rupees 200 for every such elephant, and any elephant so killed or captured shall be confiscated to Government :

Provided that no person who kills, or attempts to kill, or abets the killing of, an elephant in protection of himself, his houses or his crops, shall be liable to punishment under this section ; and provided also that every person who in the like case captures, or attempts to capture, or abets the capture of, an elephant, shall be exempt from fine under this section, but shall, if the elephant be captured, be bound to surrender it to Government, or to pay such royalty thereon as the Local Government may from time to time direct.

Power to regulate iss of licenses.

9. It shall be competent for the Local Government to make rules for the issue of licenses to kill or capture elephants, and for all purposes connected with the capture of elephants.

Limitation prosecution.

10. The prosecution for every offence punishable under section 8 of this Regulation shall be commenced within six calendar months after the offence is committed.

Jurisdictior as to offenc

11. Offences against this Regulation may be tried by Magistrates of the first or second class, and shall be bailab[illegible]

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